

matter specialists for the purpose of assisting the Department in its determination of whether materials for which export certification or import authentication is sought contain widespread and gross misstatements of fact.

(b) As necessary, the Department may determine eligibility of material for certification or authentication based in part on the opinions obtained from subject matter specialists and the Committee on Attestation.

§ 61.7 Review and appeal procedures.

(a) An applicant may request a formal review of any adverse ruling rendered by the Attestation Officer. Such request for review must be made in writing and received no more than 30 days from the date of the Attestation Officer's decision.

(b) The request for review must set forth all arguments which the applicant wishes to advance in support of his or her position and any data upon which such argument is based. A copy of the material for which certification or authentication has been denied must accompany the request for review. The request for review should be addressed as follows: Attestation Program Review Board ECA/GCV—Attestation Officer, Department of State, 301 4th Street, SW., Washington, DC 20547.

(c) The Review Board shall render the applicant a written decision, reversing or affirming the ruling of the Attestation Officer, within 30 days from receipt of the request for review. Such decision shall constitute final administrative action.

§ 61.8 Coordination with United States Customs Service.

(a) Nothing in this part shall preclude examination of imported materials pursuant to the Customs laws and regulations of the United States as codified at 19 U.S.C. 1305 and 19 CFR 10.121, or the application of the laws and regulations governing the importation or prohibition against importation of certain materials including seditious or salacious materials as set forth at 19 U.S.C. 1305.

(b) Department authentications of a foreign certificate for entry under HTS Item No. 9817.00.4000 will be reflected by the issuance of an Importation Doc-

ument. A copy of each Importation Document issued by the Department will be simultaneously furnished the United States Customs Service.

(c) Customs User Fee: Articles delivered by mail, which are eligible for duty-free entry under the regulations in this part are, additionally, not subjected to the standard Customs User Fee normally imposed by the United States Customs Service, provided there has been a timely filing with the appropriate United States Customs Service office of the documentation required by the regulations in this part.

§ 61.9 General information.

General information and application forms may be obtained by writing to the Attestation Office as follows: ECA/GCV—Attestation Officer, Department of State, 301 4th Street, SW., Washington, DC 20547; or calling (202) 475-0221.

[59 FR 18965, Apr. 21, 1994. Redesignated and amended at 64 FR 54539, Oct. 7, 1999]

PART 62—EXCHANGE VISITOR PROGRAM

Subpart A—General Provisions

Sec.

- 62.1 Purpose.
- 62.2 Definitions.
- 62.3 Sponsor eligibility.
- 62.4 Categories of participant eligibility.
- 62.5 Application procedure.
- 62.6 Designation.
- 62.7 Redesignation.
- 62.8 General program requirements.
- 62.9 General obligations of sponsors.
- 62.10 Program administration.
- 62.11 Duties of responsible officers.
- 62.12 Control of Forms IAP-66.
- 62.13 Notification requirements.
- 62.14 Insurance.
- 62.15 Annual reports.
- 62.16 Employment.
- 62.17 Fees and charges. [Reserved]

Subpart B—Specific Program Provisions

- 62.20 Professors and research scholars.
- 62.21 Short-term scholars.
- 62.22 Trainees.
- 62.23 College and university students.
- 62.24 Teachers.
- 62.25 Secondary school students.
- 62.26 Specialists.
- 62.27 Alien physicians.
- 62.28 International visitors.
- 62.29 Government visitors.

§ 62.1

22 CFR Ch. I (4–1–00 Edition)

- 62.30 Camp counselors.
- 62.31 Au pairs.
- 62.32 Summer work travel.

Subpart C—Status of Exchange Visitors

- 62.40 Termination of program participation.
- 62.41 Change of category.
- 62.42 Transfer of program.
- 62.43 Extension of program.
- 62.45 Reinstatement to valid program status.

Subpart D—Sanctions

- 62.50 Sanctions.

Subpart E—Termination and Revocation of Programs

- 62.60 Termination of designation.
- 62.61 Revocation.
- 62.62 Responsibilities of the sponsor upon termination or revocation.

Subparts F–G [Reserved]

APPENDIX A TO PART 62—CERTIFICATION OF RESPONSIBLE OFFICERS AND SPONSORS

APPENDIX B TO PART 62—EXCHANGE VISITOR PROGRAM SERVICES, EXCHANGE VISITOR PROGRAM APPLICATION

APPENDIX C TO PART 62—UPDATE OF INFORMATION ON EXCHANGE VISITOR PROGRAM SPONSOR

APPENDIX D TO PART 62—ANNUAL REPORT—EXCHANGE VISITOR PROGRAM SERVICES (GC/V), DEPARTMENT OF STATE, WASHINGTON, DC 20547 (202-401-7964)

APPENDIX E TO PART 62—UNSKILLED OCCUPATIONS

AUTHORITY: 8 U.S.C. 1101(A)(15)(j), 1182, 1184, 1258; 22 U.S.C. 1431-1442, 2451-2460; Pub. L. 105-277, 112 Stat. 2681 *et seq.*; Reorganization Plan No. 2 of 1977, 3 CFR, 1977 Comp. p. 200; E.O. 12048 of March 27, 1978, 3 CFR, 1978 Comp. p. 168.

SOURCE: 58 FR 15196, Mar. 19, 1993, unless otherwise noted. Redesignated at 64 FR 54539, Oct. 7, 1999.

EDITORIAL NOTE: Nomenclature changes to part 62 appear at 64 FR 54539, Oct. 7, 1999.

Subpart A—General Provisions

§ 62.1 Purpose.

(a) The regulations set forth in this part implement the Mutual Educational and Cultural Exchange Act of 1961 (the “Act”), as amended, Public Law 87-256, 22 U.S.C. 2451, *et seq.* (1988). The purpose of the Act is to increase mutual understanding between the people of the United States and the people

of other countries by means of educational and cultural exchanges. Educational and cultural exchanges assist the Department of State in furthering the foreign policy objectives of the United States. These exchanges are defined by section 102 of the Act, 22 U.S.C. 2452, and section 101(a)(15)(J) of the Immigration and Nationality Act, as amended, 8 U.S.C. 1101(a)(15)(J).

(b) The Secretary of State of the Department of State facilitates activities specified in the Act, in part, by designating public and private entities to act as sponsors of the Exchange Visitor Program. Sponsors may act independently or with the assistance of third parties. The purpose of the Program is to provide foreign nationals with opportunities to participate in educational and cultural programs in the United States and return home to share their experiences, and to encourage Americans to participate in educational and cultural programs in other countries. Exchange visitors enter the United States on a J visa. The regulations set forth in this subpart are applicable to all sponsors.

§ 62.2 Definitions.

Accompanying spouse and dependents means the alien spouse and minor unmarried children of an exchange visitor who are accompanying or following to join the exchange visitor and who are seeking to enter or have entered the United States temporarily on a J-2 visa or are seeking to acquire or have acquired such status after admission. For the purpose of these regulations, a minor is a person under the age of 21 years old.

Accredited educational institution means any publicly or privately operated primary, secondary, or post-secondary institution of learning duly recognized and declared as such by the appropriate authority of the state in which such institution is located; provided, however, that in addition to any state recognition, all post-secondary institutions shall also be accredited by a nationally recognized accrediting agency or association as recognized by the United States Secretary of Education but shall not include any institution whose offered programs are primarily vocational in nature.

Department of State

§ 62.2

Act means the Mutual Educational and Cultural Exchange Act of 1961, as amended.

Citizen of the United States means:

(1) An individual who is a citizen of the United States or one of its territories or possessions, or who has been lawfully admitted for permanent residence, within the meaning of section 101(a)(20) of the Immigration and Nationality Act; or

(2) A general or limited partnership created or organized under the laws of the United States, or of any state, the District of Columbia, or a territory or possession of the United States, of which a majority of the partners are citizens of the United States; or

(3) A for-profit corporation, association, or other legal entity created or organized under the laws of the United States, or of any state, the District of Columbia, or a territory or possession of the United States, which:

(i) Has its principal place of business in the United States; and

(ii) Has its shares or voting interests publicly traded on a U.S. stock exchange; or, if its shares or voting interests are not publicly traded on a U.S. stock exchange, it shall nevertheless be deemed to be a citizen of the United States if a majority of its officers, Board of Directors, and its shareholders or holders of voting interests are citizens of the United States; or

(4) A non-profit corporation, association, or other legal entity created or organized under the laws of the United States, or any state, the District of Columbia, or territory or possession of the United States; and

(i) Which is qualified with the Internal Revenue Service as a tax-exempt organization pursuant to §501(c) of the Internal Revenue Code; and

(ii) Which has its principal place of business in the United States; and

(iii) In which a majority of its officers and a majority of its Board of Directors or other like body vested with its management are citizens of the United States; or

(5) An accredited college, university, or other post-secondary educational institution created or organized under the laws of the United States, or of any state, including a county, municipality, or other political subdivision

thereof, the District of Columbia, or of a territory or possession of the United States; or

(6) An agency of the United States, or of any state or local government, the District of Columbia, or a territory or possession of the United States.

Consortium means a not-for-profit corporation or association formed by two or more accredited educational institutions for the purpose of sharing educational resources, conducting research, and/or developing new programs to enrich or expand the opportunities offered by its members. Entities that participate in a consortium are not barred from having a separate exchange visitor program designation of their own.

Country of nationality or last legal residence means either the country of which the exchange visitor was a national at the time status as an exchange visitor was acquired or the last foreign country in which the visitor had a legal permanent residence before acquiring status as an exchange visitor.

Cross-cultural activity is an activity designed to promote exposure and interchange between exchange visitors and Americans so as to increase their understanding of each other's society, culture, and institutions.

Department means the Department of State.

Designation means the written authorization given by the Department of State to an exchange visitor program applicant to conduct an exchange visitor program as a sponsor.

Employee means an individual who provides services or labor for an employer for wages or other remuneration but does not mean independent contractors, as defined in 8 CFR 274a.1(j).

Exchange visitor means a foreign national who has been selected by a sponsor to participate in an exchange visitor program and who is seeking to enter or has entered the United States temporarily on a J-1 visa. The term does not include the visitor's immediate family.

Exchange Visitor Program means the international exchange program administered by the Department of State to implement the Act by means of educational and cultural programs. When

“exchange visitor program” is set forth in lower case, it refers to the individual program of a sponsor which has been designated by the Department of State.

Exchange Visitor Program Services means the Department of State staff delegated authority by the Secretary of State to administer the Exchange Visitor Program in compliance with the regulations set forth in this part.

Exchange visitor's government means the government of the country of the exchange visitor's nationality or the country where the exchange visitor has a legal permanent residence.

Financed directly means financed in whole or in part by the United States Government or the exchange visitor's government with funds contributed directly to the exchange visitor in connection with his or her participation in an exchange visitor program.

Financed indirectly means:

(1) Financed by an international organization with funds contributed by either the United States or the exchange visitor's government for use in financing international educational and cultural exchanges, or

(2) Financed by an organization or institution with funds made available by either the United States or the exchange visitor's government for the purpose of furthering international educational and cultural exchange.

Form IAP-66 means a Certificate of Eligibility, a controlled document of the Department of State.

Full course of study means enrollment in an academic program of classroom participation and study, and/or doctoral thesis research at an accredited educational institution as follows:

(1) Secondary school students shall satisfy the attendance and course requirements of the state in which the school is located;

(2) College and university students shall register for and complete a full course of study, as defined by the accredited educational institution in which the student is registered, unless exempted in accordance with §514.23(e).

Graduate medical education or training means participation in a program in which the alien physician will receive graduate medical education or training, which generally consists of a residency or fellowship program involving

health care services to patients, but does not include programs involving observation, consultation, teaching or research in which there is no or only incidental patient care. This program may consist of a medical specialty, a directly related medical subspecialty, or both.

Home-country physical presence requirement means the requirement that an exchange visitor who is within the purview of section 212(e) of the Immigration and Nationality Act (substantially quoted in §514.44) must reside and be physically present in the country of nationality or last legal permanent residence for an aggregate of at least two years following departure from the United States before the exchange visitor is eligible to apply for an immigrant visa or permanent residence, a nonimmigrant H visa as a temporary worker or trainee, or a nonimmigrant L visa as an intracompany transferee, or a nonimmigrant H or L visa as the spouse or minor child of a person who is a temporary worker or trainee or an intracompany transferee.

J visa means a non-immigrant visa issued pursuant to 8 U.S.C. 1101(a)(15)(J). A J-1 visa is issued to the exchange visitor. J-2 visas are issued to the exchange visitor's immediate family.

Non-specialty occupation means any occupation that is not a specialty occupation (q.v.). Non-specialty occupations range from unskilled occupations up to and including skilled occupations requiring at least two years training or experience.

On-the-job training means an individual's observation of and participation in given tasks demonstrated by experienced workers for the purpose of acquiring competency in such tasks.

Prescribed course of study means a non-degree academic program with a specific educational objective. Such course of study may include intensive English language training, classroom instruction, research projects, and/or academic training to the extent permitted in §514.23.

Reciprocity means the participation of a United States citizen in an educational and cultural program in a foreign country in exchange for the participation of a foreign national in the

Department of State

§ 62.4

Exchange Visitor Program. Where used herein, “reciprocity” shall be interpreted broadly; unless otherwise specified, reciprocity does not require a one-for-one exchange or that exchange visitors be engaged in the same activity. For example, exchange visitors coming to the United States for training in American banking practices and Americans going abroad to teach foreign nationals public administration would be considered a reciprocal exchange, when arranged or facilitated by the same sponsor.

Responsible officer means the employee or officer of a designated sponsor who has been listed with the Department of State as assuming the responsibilities outlined in § 514.11. The designation of alternate responsible officers is permitted and encouraged. The responsible officer and alternate responsible officers must be citizens of the United States or persons who have been lawfully admitted for permanent residence.

Secretary of State means the Secretary of State of the Department of State or an employee of the Department of State acting under a delegation of authority from the Secretary of State.

Specialty occupation means an occupation that requires theoretical and practical application of a body of highly specialized knowledge to perform fully in the stated field of endeavor. It requires completion of a specified course of education, where attainment of such knowledge or its equivalent is the minimum competency requirement recognized in the particular field of endeavor in the United States. Some examples of specialized fields of knowledge are public and business administration, agricultural research, architecture, engineering, computer and physical sciences, accounting, and print and broadcast journalism.

Sponsor means a legal entity designated by the Secretary of State of the State Department to conduct an exchange visitor program.

Third party means an entity cooperating with or assisting the sponsor in the conduct of the sponsor’s program. Sponsors are required to take all reasonable steps to ensure that third parties know and comply with all applica-

ble provisions of these regulations. Third party actions in the course of providing such assistance or cooperation shall be imputed to the sponsor in evaluating the sponsor’s compliance with these regulations.

§ 62.3 Sponsor eligibility.

(a) Entities eligible to apply for designation as a sponsor of an exchange visitor program are:

(1) United States local, state and federal government agencies;

(2) International agencies or organizations of which the United States is a member and which have an office in the United States; or

(3) Reputable organizations which are “citizens of the United States,” as that term is defined in § 514.2.

(b) To be eligible for designation as a sponsor, an entity is required to:

(1) Demonstrate, to the Department of State’s satisfaction, its ability to comply and remain in continual compliance with all provisions of part 514; and

(2) Meet at all times its financial obligations and responsibilities attendant to successful sponsorship of its exchange program.

§ 62.4 Categories of participant eligibility.

Sponsors may select foreign nationals to participate in their exchange visitor programs. Participation by foreign nationals in an exchange visitor program is limited to individuals who shall be engaged in the following activities in the United States:

(a) *Student*. An individual who is:

(i) Studying in the United States;

(ii) Pursuing a full course of study at a secondary accredited educational institution;

(iii) Pursuing a full course of study leading to or culminating in the award of a U.S. degree from a post-secondary accredited educational institution; or

(iv) Engaged full-time in a prescribed course of study of up to 24 months duration conducted by:

(A) A post-secondary accredited educational institution; or

(B) An institute approved by or acceptable to the post-secondary accredited educational institution where the

student is to be enrolled upon completion of the non-degree program;

(2) Engaged in academic training as permitted in §514.23(f); or

(3) Engaged in English language training at:

(i) A post-secondary accredited educational institution, or

(ii) An institute approved by or acceptable to the post-secondary accredited educational institution where the college or university student is to be enrolled upon completion of the language training.

(b) *Short-term scholar.* A professor, research scholar, or person with similar education or accomplishments coming to the United States on a short-term visit for the purpose of lecturing, observing, consulting, training, or demonstrating special skills at research institutions, museums, libraries, post-secondary accredited educational institutions, or similar type of institutions.

(c) *Trainee.* An individual participating in a structured training program conducted by the selecting sponsor.

(d) *Teacher.* An individual teaching full-time in a primary or secondary accredited educational institution.

(e) *Professor.* An individual primarily teaching, lecturing, observing, or consulting a post-secondary accredited educational institutions, museums, libraries, or similar types of institutions. A professor may also conduct research, unless disallowed by the sponsor.

(f) *Research scholar.* An individual primarily conducting research, observing, or consulting in connection with a research project at research institutions, corporate research facilities, museums, libraries, post-secondary accredited educational institutions, or similar types of institutions. The research scholar may also teach or lecture, unless disallowed by the sponsor.

(g) *Specialist.* An individual who is an expert in a field of specialized knowledge or skill coming to the United States for observing, consulting, or demonstrating special skills.

(h) *Other person of similar description.* An individual of description similar to those set forth in paragraphs (a) through (g) coming to the United States, in a program designated by the

Department of State under this category, for the purpose of teaching, instructing or lecturing, study, observing, conducting research, consulting, demonstrating special skills, or receiving training. The programs designated by the Department of State in this category consist of:

(1) *International visitor.* An individual who is a recognized or potential leader, selected by the Department of State for consultation, observation, research, training, or demonstration of special skills in the United States.

(2) *Government visitor.* An individual who is an influential or distinguished person, selected by a U.S. federal, state, or local government agency for consultation, observation, training, or demonstration of special skills in the United States.

(3) *Camp counselor.* An individual selected to be a counselor in a summer camp in the United States who imparts skills to American campers and information about his or her country or culture.

§ 62.5 Application procedure.

(a) Any entity meeting the eligibility requirements set forth in §514.3 may apply to the Department of State for designation as a sponsor. Such application shall be made on Form IAP-37 ("Exchange Visitor Program Application") and filed with the Department of State's Exchange Visitor Program Services.

(b) The application shall set forth, in detail, the applicant's proposed exchange program activity and shall demonstrate its prospective ability to comply with Exchange Visitor Program regulations.

(c) The application shall be signed by the chief executive officer of the applicant and must also provide:

(1) Evidence of legal status as a corporation, partnership, or other legal entity (e.g., charter, proof of incorporation, partnership agreement, as applicable) and current certificate of good standing;

(2) Evidence of financial responsibility as set forth at §514.9(e);

(3) Evidence of accreditation if the applicant is a post-secondary educational institution;

Department of State

§ 62.8

(4) Evidence of licensure, if required by local, state, or federal law, to carry out the activity for which it is designated;

(5) Certification by the applicant (using the language set forth in appendix A) that it and its responsible officer and alternate responsible officers are citizens of the United States as defined at § 514.2; and

(6) Certification signed by the chief executive officer of the applicant that the responsible officer will be provided sufficient staff and resources to fulfill his/her duties and obligations on behalf of the sponsor.

(d) The Department of State may request any additional information and documentation which it deems necessary to evaluate the application.

§ 62.6 Designation.

(a) Upon a favorable determination that the proposed exchange program meets all statutory and regulatory requirements, the Department of State may, in its sole discretion, designate an entity meeting the eligibility requirements set forth in § 514.3 as an exchange visitor program sponsor.

(b) Designation shall confer upon the sponsor authority to engage in one or more activities specified in § 514.4. A sponsor shall not engage in activities not specifically authorized in its written designation.

(c) Designations are effective for a period of five years. In its discretion, the Department of State may designate programs, including experimental programs, for less than five years.

(d) Designations are not transferable or assignable.

§ 62.7 Redesignation.

(a) Upon expiration of a given designation term, a sponsor may seek redesignation for another five-year term.

(b) To apply for redesignation, a sponsor shall advise the Exchange Visitor Program Services by letter or by so indicating on the annual report.

(c) Request for redesignation shall be evaluated according to the criteria set forth at § 514.6(a) taking into account the sponsor's annual reports and other documents reflecting its record as an exchange visitor program sponsor.

(d) A sponsor seeking redesignation should notify the Department of State, as set forth in (b) of this section, no less than four months prior to the expiration date of its designation. A sponsor seeking redesignation may continue to operate its program(s) until such time as the Department of State notifies it of a decision to amend or terminate its designation.

§ 62.8 General program requirements.

(a) *Size of program.* Sponsors, other than Federal government agencies, shall have no less than five exchange visitors per calendar year. The Department of State may in its discretion and for good cause shown reduce this requirement.

(b) *Minimum duration of program.* Sponsors, other than federal government agencies, shall provide each exchange visitor, except short-term scholars, with a minimum period of participation in the United States of three weeks.

(c) *Reciprocity.* In the conduct of their exchange programs, sponsors shall make a good faith effort to achieve the fullest possible reciprocity in the exchange of persons.

(d) *Cross-cultural activities.* Sponsors shall:

(1) Offer or make available to exchange visitors a variety or appropriate cross-cultural activities. The extent and types of the cross-cultural activities shall be determined by the needs and interests of the particular category of exchange visitor. Sponsors will be responsible to determine the appropriate type and number of cross-cultural programs for their exchange visitors. The Department of State encourages sponsors to give their exchange visitors the broadest exposure to American society, culture and institutions; and

(2) Encourage exchange visitors to voluntarily participate in activities which are for the purpose of sharing the language, culture, or history of their home country with Americans, provided such activities do not delay the completion of the exchange visitors' programs.

§ 62.9 General obligations of sponsors.

(a) *Adherence to Department of State regulations.* Sponsors are required to adhere to all regulations set forth in this part.

(b) *Legal status.* Sponsors shall maintain legal status. A change in a sponsor's legal status (e.g. partnership to corporation) shall require application for designation of the new legal entity.

(c) *Accreditation and licensure.* Sponsors shall remain in compliance with all local, state, federal, and professional requirements necessary to carry out the activity for which they are designated, including accreditation and licensure, if applicable.

(d) *Representations and disclosures.* Sponsors shall:

(1) Provide accurate and complete information, to the extent lawfully permitted, to the Department of State regarding their exchange visitor programs and exchange visitors;

(2) Provide only accurate information to the public when advertising their exchange visitor programs or responding to public inquiries;

(3) Provide informational materials to prospective exchange visitors which clearly explain the activities, costs, conditions, and restrictions of the program;

(4) Not use program numbers on any advertising materials or publications intended for general circulation; and

(5) Not represent that any program is endorsed, sponsored, or supported by the Department of State or the United States Government, except for United States Government sponsors or exchange visitor programs financed directly by the United States Government to promote international educational exchanges. However, sponsors may represent that they are designated by the Department of State as a sponsor of an exchange visitor program.

(e) *Financial responsibility.* (1) Sponsors shall maintain the financial capability to meet at all times their financial obligations and responsibilities attendant to successful sponsorship of their exchange visitor programs.

(2) The Department of State may require non-government sponsors to provide evidence satisfactory to the Department of State that funds necessary to fulfill all obligations and respon-

sibilities attendant to sponsorship of exchange visitors are readily available and in the sponsor's control, including such supplementary or explanatory financial information as the Department of State may deem appropriate such as, for example, audited financial statements.

(3) The Department of State may require any non-government sponsor to secure a payment bond in favor of the Department of State guaranteeing all financial obligations arising from the sponsorship of exchange visitors.

(f) *Staffing and support services.* Sponsors shall ensure:

(1) Adequate staffing and sufficient support services to administer their exchange visitor programs; and

(2) That their employees, officers, agents, and third parties involved in the administration of their exchange visitor programs are adequately qualified, appropriately trained, and comply with the Exchange Visitor Program regulations.

(g) *Appointment of responsible officer.*

(1) The sponsor shall appoint a responsible officer and such alternate responsible officers as may be necessary to perform the duties set forth at § 514.11.

(2) The responsible officer and alternate responsible officers shall be employees or officers of the sponsor. The Department of State may, however, in its discretion, authorize the appointment of an individual who is not an employee or officer to serve as an alternate responsible officer, when approved by the sponsor.

(3) The Department of State may limit the number of alternate responsible officers appointed by the sponsor.

§ 62.10 Program administration.

Sponsors are responsible for the effective administration of their exchange visitor programs. These responsibilities include:

(a) *Selection of exchange visitors.* Sponsors shall provide a system to screen and select prospective exchange visitors to ensure that they are eligible for program participation, and that:

(1) The program is suitable to the exchange visitor's background, needs, and experience; and

(2) The exchange visitor possesses sufficient proficiency in the English

Department of State

§ 62.11

language to participate in his or her program.

(b) *Pre-arrival information.* Sponsors shall provide exchange visitors with pre-arrival materials including, but not limited to, information on:

(1) The purpose of the Exchange Visitor Program;

(2) Home-country physical presence requirement;

(3) Travel and entry into the United States;

(4) Housing;

(5) Fees payable to the sponsor;

(6) Other costs that the exchange visitor will likely incur (e.g., living expenses) while in the United States;

(7) Health care and insurance; and

(8) Other information which will assist exchange visitors to prepare for their stay in the United States.

(c) *Orientation.* Sponsors shall offer appropriate orientation for all exchange visitors. Sponsors are encouraged to provide orientation for the exchange visitor's immediate family, especially those who are expected to be in the United States for more than one year. Orientation shall include, but not be limited to, information concerning:

(1) Life and customs in the United States;

(2) Local community resources (e.g., public transportation, medical centers, schools, libraries, recreation centers, and banks), to the extent possible;

(3) Available health care, emergency assistance, and insurance coverage;

(4) A description of the program in which the exchange visitor is participating;

(5) Rules that the exchange visitors are required to follow under the sponsor's program;

(6) Address of the sponsor and the name and telephone number of the responsible officer; and

(7) Address and telephone number of the Exchange Visitor Program Services of the Department of State and a copy of the Exchange Visitor Program brochure outlining the regulations relevant to the exchange visitors.

(d) *Form IAP-66.* Sponsors shall ensure that only the responsible officer or alternate responsible officers issue Forms IAP-66;

(e) *Monitoring of exchange visitors.* Sponsors shall monitor, through em-

ployees, officers, agents, or third parties, the exchange visitors participating in their programs. Sponsors shall:

(1) Ensure that the activity in which the exchange visitor is engaged is consistent with the category and activity listed on the exchange visitor's Form IAP-66;

(2) Monitor the progress and welfare of the exchange visitor to the extent appropriate for the category; and

(3) Require the exchange visitor to keep the sponsor apprised of his or her address and telephone number, and maintain such information.

(f) *Requests by the Department of State.* Sponsors shall, to the extent lawfully permitted, furnish to the Department of State within a reasonable time all information, reports, documents, books, files, and other records requested by the Department of State on all matters related to their exchange visitor programs.

(g) *Inquiries and investigations.* Sponsors shall cooperate with any inquiry or investigation that may be undertaken by the Department of State.

(h) *Retention of records.* Sponsors shall retain all records related to their exchange visitor program and exchange visitors for a minimum of three years.

§ 62.11 Duties of responsible officers.

Responsible officers shall train and supervise alternate responsible officers. Responsible officers and alternate responsible officers shall:

(a) *Knowledge of regulations and codebook.* Be thoroughly familiar with the Exchange Visitor Program regulations and the Department of State's current Codebook and Instructions for Responsible Officers.

(b) *Advisement and assistance.* Ensure that the exchange visitor obtains sufficient advice and assistance to facilitate the successful completion of the exchange visitor's program.

(c) *Communications.* Conduct the official communications relating to the exchange visitor program with the Department of State, the United States Immigration and Naturalization Service, or the United States Department of State. Reference to the sponsor's program number shall be made on any

correspondence with the Department of State.

(d) *Custody of the Form IAP-66.* Act as custodian for the control, issuance, and distribution of Forms IAP-66 as set forth in § 514.12.

§ 62.12 Control of Forms IAP-66.

Forms IAP-66 shall be used only for authorized purposes. To maintain adequate control of Forms IAP-66, responsible officers or alternate responsible officers shall:

(a) *Requests.* Submit written requests to the Department of State for a one-year supply of Forms IAP-66, and allow four to six weeks for the distribution of these forms. The Department of State has the discretion to determine the number of Forms IAP-66 to be sent to a sponsor. The Department of State will take into consideration the current size of the program and the projected expansion of the program in the coming 12 months. If requested, the Department of State will consult with the responsible officer prior to determining the number of Forms IAP-66 to be sent to the sponsor. Additional forms may be requested later in the year if needed by the sponsor.

(b) *Verification.* Prior to issuing Form IAP-66, verify that the exchange visitor:

(1) Is eligible, qualified, and accepted for the program in which he or she will be participating;

(2) Possesses adequate financial resources to complete his or her program; and

(3) Possesses adequate financial resources to support any accompanying dependents.

(c) *Issuance of Form IAP-66.* Issue the Form IAP-66 only so as to:

(1) Facilitate the entry of a new participant of the exchange visitor program;

(2) Extend the stay of an exchange visitor;

(3) Facilitate program transfer;

(4) Replace a lost or stolen Form IAP-66;

(5) Facilitate entry of an exchange visitor's alien spouse or minor unmarried children into the United States separately;

(6) Facilitate re-entry of an exchange visitor who is traveling outside the United States during the program;

(7) Facilitate a change of category when permitted by the Department of State; and

(8) Update information when significant changes take place in regard to the exchange visitor's program, such as a substantial change in funding or in the location where the program will take place.

(d) *Safeguards.* (1) Store Forms IAP-66 securely to prevent unauthorized use;

(2) Prohibit transfer of any blank Form IAP-66 to another sponsor or other person unless authorized in writing (by letter or facsimile) by the Department of State to do so;

(3) Notify the Department of State promptly by telephone (confirmed promptly in writing) or facsimile of the document number of any completed Form IAP-66 that is presumed lost or stolen or any blank Form IAP-66 lost or stolen; and

(4) Forward the completed Form IAP-66 only to an exchange visitor, either directly or via an employee, officer, or agent of the sponsor, or to an individual designated by the exchange visitor.

(e) *Accounting.* (1) Maintain a record of all Forms IAP-66 received and/or issued by the sponsor;

(2) Destroy damaged and unusable Form IAP-66 on the sponsor's premises after making a record of such forms (e.g. forms with errors or forms damaged by a printer); and

(3) Request exchange visitors and prospective exchange visitors to return any unused Form IAP-66 sent to them and make a record of Forms IAP-66 which are returned to the sponsor and destroy them on the sponsor's premises.

§ 62.13 Notification requirements.

(a) *Change of circumstances.* Sponsors shall notify the Department of State promptly in writing of any of the following circumstances:

(1) Change of its address, telephone, or facsimile number;

(2) Change in the composition of the sponsoring organization which affects its citizenship as defined by § 514.2;

Department of State

§ 62.14

(3) Change of the responsible officer or alternate responsible officers;

(4) A major change of ownership or control of the sponsor's organization;

(5) Change in financial circumstances which may render the sponsor unable to comply with its obligations as set forth in § 512.9(e);

(6) Loss of licensure or accreditation;

(7) Loss or theft of Forms IAP-66 as specified at § 514.12(d)(3);

(8) Litigation related to the sponsor's exchange visitor program, when the sponsor is a party; and

(9) Termination of its exchange visitor program.

(b) *Serious problem or controversy.* Sponsors shall inform the Department of State promptly by telephone (confirmed promptly in writing) or facsimile of any serious problem or controversy which could be expected to bring the Department of State or the sponsor's exchange visitor program into notoriety or disrepute.

(c) *Program status of exchange visitor.* Sponsors shall notify the Department of State in writing when:

(1) The exchange visitor has withdrawn from or completed a program thirty (30) or more days prior to the ending date on his or her Form IAP-66; or

(2) The exchange visitor has been terminated from his or her program.

§ 62.14 Insurance.

(a) Sponsors shall require each exchange visitor to have insurance in effect which covers the exchange visitor for sickness or accident during the period of time that an exchange visitor participates in the sponsor's exchange visitor program. Minimum coverage shall provide:

(1) Medical benefits of at least \$50,000 per accident or illness;

(2) Repatriation of remains in the amount of \$7,500;

(3) Expenses associated with the medical evacuation of the exchange visitor to his or her home country in the amount of \$10,000; and

(4) A deductible not to exceed \$500 per accident or illness.

(b) An insurance policy secured to fulfill the requirements of this section:

(1) May require a waiting period for pre-existing conditions which is rea-

sonable as determined by current industry standards;

(2) May include provision for co-insurance under the terms of which the exchange visitor may be required to pay up to 25% of the covered benefits per accident or illness; and

(3) Shall not unreasonably exclude coverage for perils inherent to the activities of the exchange program in which the exchange visitor participates.

(c) Any policy, plan, or contract secured to fill the above requirements must, at a minimum, be:

(1) Underwritten by an insurance corporation having an A.M. Best rating of "A-" or above, an Insurance Solvency International, Ltd. (ISI) rating of "A-i" or above, a Standard & Poor's Claims-paying Ability rating of "A-" or above, a Weiss Research, Inc. rating of B+ or above, or such other rating as the Department of State may from time to time specify; or

(2) Backed by the full faith and credit of the government of the exchange visitor's home country; or

(3) Part of a health benefits program offered on a group basis to employees or enrolled students by a designated sponsor; or

(4) Offered through or underwritten by a federally qualified Health Maintenance Organization (HMO) or eligible Competitive Medical Plan (CMP) as determined by the Health Care Financing Administration of the U.S. Department of Health and Human Services.

(d) Federal, state or local government agencies, state colleges and universities, and public community colleges may, if permitted by law, self-insure any or all of the above-required insurance coverage.

(e) At the request of a non-governmental sponsor of an exchange visitor program, and upon a showing that such sponsor has funds readily available and under its control sufficient to meet the requirements of this section, the Department of State may permit the sponsor to self-insure or to accept full financial responsibility for such requirements.

(f) The Department of State, in its sole discretion, may condition its approval of self-insurance or the acceptance of full financial responsibility by

§ 62.15

22 CFR Ch. I (4–1–00 Edition)

the non-governmental sponsor by requiring such sponsor to secure a payment bond in favor of the Department of State guaranteeing the sponsor's obligations hereunder.

(g) An accompanying spouse or dependent of an exchange visitor is required to be covered by insurance in the amounts set forth in § 514.14(a) above. Sponsors shall inform exchange visitors of this requirement, in writing, in advance of the exchange visitor's arrival in the United States.

(h) An exchange visitor who willfully fails to maintain the insurance coverage set forth above while a participant in an exchange visitor program or who makes a material misrepresentation to the sponsor concerning such coverage shall be deemed to be in violation of these regulations and shall be subject to termination as a participant.

(i) A sponsor shall terminate an exchange visitor's participation in its program if the sponsor determines that the exchange visitor or any accompanying spouse or dependent willfully fails to remain in compliance with this section.

[58 FR 15196, Mar. 19, 1993, as amended at 59 FR 34761, July 7, 1994. Redesignated at 64 FR 54539, Oct. 7, 1999]

§ 62.15 Annual reports.

Sponsors shall submit an annual report to the Department of State. An illustrative form of such report may be found at Appendix D to this part. Such report shall be filed on an academic or calendar year basis, as directed by the Department of State, and shall contain the following:

(a) *Program report and evaluation.* A brief summary of the activities in which exchange visitors were engaged, including an evaluation of program effectiveness;

(b) *Reciprocity.* A description of the nature and extent of reciprocity occurring in the sponsor's exchange visitor program during the reporting year;

(c) *Cross-cultural activities.* A summary of the cross-cultural activities provided for its exchange visitors during the reporting year;

(d) *Proof of insurance.* Certification of compliance with insurance coverage requirements set forth in § 514.14.

(e) *Form IAP-66 usage.* A report of Form IAP-66 usage during the reporting year setting forth the following information:

(1) The total number of blank Forms IAP-66 received from the Department of State during the reporting year;

(2) The total number of Forms IAP-66 voided or destroyed by the sponsor during the reporting year and the document numbers of such forms;

(3) The total number of Forms IAP-66 issued to potential exchange visitors that were returned to the sponsor or not used for entry into the United States; and

(4) The total number and document identification number sequence of all blank Forms IAP-66 in the possession of the sponsor on the date of the report.

(f) *Program participation.* A numerical count, by category, of all exchange visitors participating in the sponsor's program for the reporting year.

(g) *Redesignation.* Sponsors may indicate their desire for redesignation, pursuant to § 514.7, by marking the appropriate box on their annual report.

§ 62.16 Employment.

(a) An exchange visitor may receive compensation from the sponsor or the sponsor's appropriate designee for employment when such activities are part of the exchange visitor's program.

(b) An exchange visitor who engages in unauthorized employment shall be deemed to be in violation of his or her program status and is subject to termination as a participant in an exchange visitor program.

(c) The acceptance of employment by an accompanying spouse or minor child of an exchange visitor is governed by Immigration and Naturalization Service regulations.

§ 62.17 Fees and charges. [Reserved]

Subpart B—Specific Program Provisions

§ 62.20 Professors and research scholars.

(a) *Introduction.* These regulations govern professors and research scholars, except:

Department of State

§ 62.20

(1) Alien physicians in graduate medical education or training, who are governed by regulations set forth at § 514.27; and

(2) Short-term scholars, who are governed by regulations set forth at § 514.21.

(b) *Purpose.* A primary purpose of the Exchange Visitor Program is to foster the exchange of ideas between Americans and foreign nationals and to stimulate international collaborative teaching and research efforts. The exchange of professors and research scholars promotes interchange, mutual enrichment, and linkages between research and educational institutions in the United States and foreign countries. It does so by providing foreign professors and research scholars the opportunity to engage in research, teaching, and lecturing with their American colleagues, to participate actively in cross-cultural activities with Americans, and ultimately to share with their fellow citizens their experiences and increased knowledge about the United States and their substantive fields.

(c) *Designation.* The Department of State may, in its sole discretion, designate *bona fide* programs which offer foreign nationals the opportunity to engage in research, teaching, lecturing, observing, or consulting at research institutions, corporate research facilities, museums, libraries, post-secondary accredited educational institutions, or similar types of institutions in the United States.

(d) *Visitor eligibility.* An individual may be selected for participation in the Exchange Visitor Program as a professor or research scholar subject to the following conditions:

(i) The participant shall not be a candidate for tenure track position; and

(ii) The participant has not been physically present in the United States as a nonimmigrant pursuant to the provisions of 8 U.S.C. 1101(a)(15)(J) for all or part of the twelve month period immediately preceding the date of program commencement set forth on his or her Form IAP-66, unless:

(A) The participant is transferring to the sponsor's program as provided in § 514.42; or

(B) The participant's presence in the United States was of less than six months duration; or

(C) The participant's presence in the United States was pursuant to a Short-term scholar exchange activity as authorized by § 514.21.

(e) *Insurance of Form IAP-66.* The Form IAP-66 shall be issued only after the professor or research scholar has been accepted by the institution(s) where he or she will participate in an exchange visitor program.

(f) *Location of the exchange.* Professors or research scholars shall conduct their exchange activity at the location(s) listed on the Form IAP-66, which could be either at the location of the exchange visitor sponsor or the site of a third party facilitating the exchange. An exchange visitor may also engage in activities at locations not listed on the Form IAP-66 if such activities constitute occasional lectures or consultations as permitted by § 514.20(g).

(g) *Occasional lectures or consultations.* Professors and research scholars may participate in occasional lectures and short-term consultations, unless disallowed by the sponsor. Such lectures and consultations must be incidental to the exchange visitor's primary program activities. If wages or other remuneration are received by the exchange visitor for such activities, the exchange visitor must act as an independent contractor, as such term is defined in 8 CFR 274a.1(j), and the following criteria and procedures shall be satisfied:

(1) *Criteria.* The occasional lectures or short-term consultations shall:

(i) Be directly related to the objectives of the exchange visitor's program;

(ii) Be incidental to the exchange visitor's primary program activities; and

(iii) Not delay the completion date of the visitor's program.

(2) *Procedures.*

(i) To obtain authorization to engage in occasional lectures or short-term consultations involving wages or other remuneration, the exchange visitor shall present to the responsible officer:

(A) A letter from the offeror setting forth the terms and conditions of the offer to lecture or consult, including

the duration, number of hours, field or subject, amount of compensation, and description of such activity; and

(B) A letter from his or her department head or supervisor recommending such activity and explaining how it would enhance the exchange visitor's program.

(ii) The responsible officer shall review the letters required in § 514.20(g)(2)(i) above and make a written determination whether such activity is warranted and satisfies the criteria set forth in § 514.20(g)(1).

(h) *Category.* At the discretion of the responsible officer, professors may freely engage in research and research scholars may freely engage in teaching and lecturing, unless disallowed by the sponsor. Because these activities are so intertwined, such a change of activity will not be considered a change of category necessitating a formal approval by the responsible officer or approval by the Department of State. Any Form IAP-66 issued to the exchange visitor should reflect the current category of the exchange visitor, either professor or research scholar.

(i) *Duration of participation.* The permitted duration of program participation for a professor or research scholar shall be as follows:

(1) *General limitation.* The professor and research scholar shall be authorized to participate in the Exchange Visitor Program for the length of time necessary to complete his or her program, which time shall not exceed three years.

(2) *Exceptional circumstance.* The Department of State may authorize a designated Exchange Visitor Program sponsor to conduct an exchange activity requiring a period of program duration in excess of three years. A sponsor seeking to conduct a discrete activity requiring more than the permitted three years of program duration, but less than six years of program duration, shall make written request to the Department of State and secure written Department of State approval. Such request shall include:

(i) A detailed explanation of the discrete exchange activity; and

(ii) A certification that the participation of selected research scholars will

be financed directly by United States or foreign government funds.

(3) *Change of category.* A change between the categories of professor and research scholar shall not extend an exchange visitor's permitted period of participation beyond three years.

(j) *Extension of program.* Professors and research scholars may be authorized program extensions as follows:

(1) *Responsible officer authorization.* A responsible officer may extend, in his or her discretion and for a period not to exceed six months, the three year period of program participation permitted under § 514.20(i). The responsible officer exercising his or her discretion shall do so only upon his or her affirmative determination that such extension is necessary in order to permit the research scholar or professor to complete a specific project or research activity.

(2) *Department of State authorization.* The Department of State may extend, upon request and in its sole discretion, the three year period of program participation permitted under § 514.20(i). A request for Department of State authorization to extend the period of program participation for a professor or research scholar shall:

(i) Be submitted to the Department of State, unless prevented by extraordinary circumstance, no less than 60 days prior to the expiration of the participant's permitted three year period of program participation; and

(ii) Present evidence, satisfactory to the Department of State, that such request is justified due to exceptional or unusual circumstances and is necessary in order to permit the researcher or professor to complete a specific project or research activity.

(3) *Timeliness.* The Department of State will not review a request for Department of State authorization to extend the three year period of program participation permitted under § 514.20(i) unless timely filed; provided, however, that the Department of State reserves the right to review a request that is not timely filed due to extraordinary circumstance.

(4) *Final decision.* The Department of State anticipates it will respond to requests for Department of State authorization to extend the three year period

Department of State

§ 62.22

of program participation permitted under § 514.20(i) within 30 days of Department of State receipt of such request and supporting documentation. Such response shall constitute the Department of State's final decision.

[58 FR 15196, Mar. 19, 1993; 58 FR 48448, Sept. 16, 1993, as amended at 61 FR 29287, June 10, 1996. Redesignated at 64 FR 54539, Oct. 7, 1999]

§ 62.21 Short-term scholars.

(a) *Introduction.* These regulations govern scholars coming to the United States for a period of up to four months to lecture, observe, consult, and to participate in seminars, workshops, conferences, study tours, professional meetings, or similar types of educational and professional activities.

(b) *Purpose.* The Exchange Visitor Program promotes the interchange of knowledge and skills among foreign and American scholars. It does so by providing foreign scholars the opportunity to exchange ideas with their American colleagues, participate in educational and professional programs, confer on common problems and projects, and promote professional relationships and communications.

(c) *Designation.* The Department of State may, in its sole discretion, designate *bona fide* programs which offer foreign nationals the opportunity to engage in short-term visits for the purpose of lecturing, observing, consulting, training, or demonstrating special skills at research institutions, museums, libraries, post-secondary accredited educational institutions, or similar types of institutions.

(d) *Visitor eligibility.* A person participating in the Exchange Visitor Program under this section shall satisfy the definition of a short-term scholar as set forth in § 514.4.

(e) *Cross-cultural activities and orientation.* Due to the nature of such exchanges, sponsors of programs for short-term scholars shall be exempted from the requirements of providing cross-cultural activities and orientation as set forth in § 514.8(d) and § 514.10(c). However, sponsors are encouraged to provide such programs for short-term scholars whenever appropriate.

(f) *Location of exchange.* The short-term scholar shall participate in the

Exchange Visitor Program at the conferences, workshops, seminars, or other events or activities stated on his or her Form IAP-66. A participant may also lecture or consult at institutions not listed on the Form IAP-66 if his or her Responsible Officer issues a written authorization of such activity. Such written authorization must be attached to the participant's Form IAP-66.

(g) *Duration of participation.* The short-term scholar shall be authorized to participate in the Exchange Visitor Program for the length of time necessary to complete the program, which time shall not exceed six months. Programs under this section are exempted from § 514.8(b) governing the minimum duration of a program. Extensions beyond the duration of participation are not permitted under this category.

[58 FR 15196, Mar. 19, 1993; 58 FR 48448, Sept. 16, 1993, as amended at 61 FR 39585, July 30, 1996; 64 FR 17975, Apr. 13, 1999. Redesignated at 64 FR 54539, Oct. 7, 1999]

§ 62.22 Trainees.

(a) *Introduction.* These regulations govern all exchange visitor programs under which foreign nationals are provided with opportunities for receiving training in the United States. Regulations dealing with training opportunities which may, under certain conditions, be authorized for foreign students who are studying at post-secondary accredited educational institutions in the United States are found at § 514.23. Regulations governing medical trainees are found at § 514.27.

(b) *Purpose of training.* The primary objectives of training are to enhance the exchange visitor's skills in his or her specialty or non-specialty occupation through participation in a structured training program and to improve the participant's knowledge of American techniques, methodologies, or expertise within the individual's field of endeavor. Such training programs are also designed to enable the exchange visitor trainee to understand better American culture and society and to enhance American knowledge of foreign cultures and skills by providing the opportunity for an open interchange of ideas between the exchange visitor trainees and their American

counterparts. Use of the Exchange Visitor Program for ordinary employment or work purposes is strictly prohibited. For this reason the regulations in this section are designed to distinguish between receiving training, which is permitted, and gaining experience, which is not permitted unless as a component of a *bona fide* training program.

(c) *Designation of training programs.*

(1) The Department of State groups occupations into specialty, non-specialty, or unskilled occupational categories. The Department of State will designate training programs in specialty and non-specialty occupations. Training programs in unskilled occupations or occupations in other categories which the Department of State may from time to time identify by publication in the FEDERAL REGISTER will not be designated. For purposes of these regulations, the Department of State considers the occupations listed in Appendix E to part 514 to be “unskilled occupations.”

(2) For purposes of designation, the Department of State will designate specialty and skilled non-specialty occupational training programs in any of the following occupational categories:

- (i) Arts and Culture;
- (ii) Information Media and Communications;
- (iii) Education, Social Sciences, Library Science, Counseling and Social Services;
- (iv) Management, Business, Commerce and Finance;
- (v) Health Related Occupations;
- (vi) Aviation;
- (vii) The Sciences, Engineering, Architecture, Mathematics, and Industrial Occupations;
- (viii) Construction and Building Trades;
- (ix) Agriculture, Forestry and Fishing;
- (x) Public Administration and Law;
- (xi) Other (Specify).

(3) Sponsors may apply for designation for training programs in any combination of specialty and/or non-specialty occupations. Once designated, the sponsor may provide training in any occupation falling within the designated category, if not otherwise prohibited from doing so. Sponsors shall provide training to exchange visitors only in the category or categories for

which they have obtained Department of State designation.

(d) *Obligations of training program sponsors.* (1) Sponsors designated by the Department of State to provide training to foreign exchange visitors shall:

(i) Ensure that individuals and/or entities conducting training possess and maintain the demonstrable competence to provide training in the subjects offered to each exchange visitor.

(ii) Ensure that skills, knowledge, and competence are imparted to the trainee through a structured program of activities which are supportive and appropriate to the training experience. These may include, for example, classroom training, seminars, rotation through several departments, on-the-job training, and attendance at conferences, as appropriate.

(iii) Develop, prior to the start of training, a detailed training plan geared to defined objectives for each trainee or group of similarly-situated trainees.

(iv) Ensure that continuous supervision and periodic evaluation of each trainee is provided.

(v) Ensure that sufficient plant, equipment, and trained personnel are available to provide the training specified.

(2) Sponsors designated by the Department of State to provide training to foreign exchange visitors shall not:

(i) Provide training in unskilled occupations; or

(ii) Place trainees in positions which are filled or would be filled by full-time or part-time employees.

(e) *Use of third parties.* (1) The sponsor may utilize the services of third parties in the conduct of the designated training program. If a third party is utilized, the sponsor and the third party shall execute a written agreement which delineates the respective obligations and duties of the parties and specifically recites the third party's obligation to act in accordance with these regulations. The sponsor shall maintain a copy of such agreement in its files.

(2) The sponsor's use of a third party in the conduct of a designated training program does not relieve the sponsor of its obligation to comply, and to ensure the third party's compliance, with all

applicable regulations. Any failure on the part of the third party to comply with all applicable regulations will be imputed to the sponsor.

(f) *Application for designation of training programs.* (1) An applicant for designation as an exchange visitor training program shall demonstrate to the Department of State its ability to comply with both the General Provisions set forth in subpart A, and the obligations of training sponsors set forth in § 514.22(d).

(2)(i) An applicant shall provide the Department of State with documentary evidence of its competence to provide the training for which designation is sought.

(ii) If third parties are to be used to conduct one or more aspects of the activities for which designation is sought, the applicant shall provide the Department of State with forms and procedures which will be used by the sponsor to ensure third party compliance with all applicable regulations and fulfillment of the goals and purposes of the sponsor's exchange visitor program.

(iii) If the applicant intends to utilize the services of third parties to conduct the training, a copy of an executed third-party agreement or, if one has not yet been executed, an illustrative copy of the type of agreement the applicant intends to execute with third parties shall be submitted with the application.

(3) If the training program is accredited in accordance with § 514.22(n), the applicant shall include a copy of the accreditation in its application.

(4) The application shall include a certification that:

(i) Sufficient physical plant, equipment, and trained personnel will be dedicated to provide the training specified;

(ii) The training program is not designed to recruit and train aliens for employment in the United States;

(iii) Trainees will not be placed in positions which displace full-time or part-time employees.

(5) As to each occupational division for which the applicant seeks designation, the applicant shall indicate whether it intends to provide training

in specialty or non-specialty occupations, or both.

(6) In order to meet the requirements of this subsection and to evidence the competence of the applicant and/or third parties conducting one or more aspects of the applicant's exchange visitor program to provide training, the applicant for designation may submit any one of the following types of training plans for each division for which designation is sought;

(i) If the applicant has already designed a structured training plan to use in the proposed exchange visitor program, a copy of such training plan may be submitted with the application;

(ii) If the applicant has not yet prepared a new training plan, but has been engaged previously in the type of training, directly or through third parties, for which designation is being sought, the applicant may demonstrate its capability to conduct such training by submitting a copy of a previously used training plan;

(iii) If the applicant proposes to create individualized training plans for as yet unidentified trainees, then the applicant may submit a hypothetical training plan which illustrates the training the applicant proposes to provide, directly or through third parties.

(g) *The training plan.* Each training plan required to be prepared for a trainee or group of trainees pursuant to § 514.22(d)(1)(iii) above, shall include, at a minimum,

(1) A statement of the objectives of the training;

(2) The skills to be imparted to the trainee;

(3) A copy of the training syllabus or chronology;

(4) A justification for the utilization of on-the-job training to achieve stated course competencies; and

(5) A description of how the trainee will be supervised and evaluated.

(h) *Department of State consultation with experts.* The Department of State may consult experts whenever its examination of a training plan or its evaluation of application for designation indicates the need for such expertise in making an evaluation.

(i) *Records.* Sponsors shall retain for three years all records pertaining to individual trainees, training plans, trainee evaluations, and agreements with third parties. Such records shall be made available to the Department of State upon the Department of State's request.

(j) *Selection of trainees.* In addition to meeting the requirements of § 514.10(a), trainees shall be fully qualified to participate successfully in a structured training program at a level appropriate for the individual trainee's career development. However, such training shall not be duplicative of the trainee's prior training and experience.

(k) *Duration of participation.* The duration of participation shall correspond to the length of the program set forth in the sponsor's designation. The maximum period of participation in the Exchange Visitor Program for a trainee shall not exceed 18 months total.

(l) *Financial and program disclosure.* Sponsors shall provide trainees, prior to their arrival in the United States, with:

(1) A written statement which clearly states the stipend, if any, to be paid to the trainee;

(2) The costs and fees for which the trainee will be obligated;

(3) An estimate of living expenses during the duration of the trainee's stay; and

(4) A summary of the training program which recites the training objectives and all significant components of the program.

(m) *Evaluation.* In order to ensure the quality of the training program, the sponsor shall develop procedures for the ongoing evaluation of each training segment. Such evaluation shall include, as a minimum, midpoint and concluding evaluation reports from the trainee and his or her immediate supervisor, signed by both parties. For training courses of less than three months duration, evaluation reports are required upon conclusion of the training program.

(n) *Flight training.* (1) The Department of State will consider the application for designation of a flight training program if such program complies with the above regulations, and, additionally,

(i) Is, at the time of making said application, a Federal Aviation Administration certificated pilot school pursuant to title 14, Code of Federal Regulations, part 141; and

(ii) At the time of making said application is accredited as a flight training program by an accrediting agency which is listed in the current edition of the United States Department of Education's "Nationally Recognized Accrediting Agencies and Associations," or is accredited as a flight training program by a member of the Council on Postsecondary Accreditation; or

(iii) At the time of making said application has formally commenced the accreditation process with an accrediting agency which is listed in the current edition of the United States Department of Education's "Nationally Recognized Accrediting Agencies and Associations," or with a member of the Council on Postsecondary Accreditation. If the application for designation is approved, such designation shall be for up to twelve-months duration, with continued designation thereafter conditioned upon completion of the accreditation process.

(2) Notwithstanding the provisions of § 514.22(k), *supra*, the maximum period of participation for exchange visitors in designated flight training programs shall not exceed 24 months total. Any request for extension of time in excess of that authorized under this subsection shall be made in accordance with § 514.43, *infra*.

(3) For purposes of meeting the evaluation requirements set forth in § 514.22(m), sponsors and/or third parties conducting the training may utilize the same training records as are required by the Federal Aviation Administration to be maintained pursuant to 14 CFR 141.101.

[58 FR 15196, Mar. 19, 1993; 58 FR 48448, Sept. 16, 1993. Redesignated at 64 FR 54539, Oct. 7, 1999]

§ 62.23 College and university students.

(a) *Purpose.* Programs under § 514.23 provide foreign students the opportunity to participate in a designated exchange program while studying at a degree-granting post-secondary accredited educational institution. Exchange

Department of State

§ 62.23

visitors under this category may participate in degree and non-degree programs. Such exchanges are intended to promote mutual understanding by fostering the exchange of ideas between foreign students and their American counterparts.

(b) *Designation.* The Department of State may, in its sole discretion, designate *bona fide* programs which offer foreign nationals the opportunity to study in the United States at post-secondary accredited educational institutions.

(c) *Selection criteria.* Sponsors select the college and university students who participate in their exchange visitor programs. Sponsors shall secure sufficient background information on the students to ensure that they have the academic credentials required for their program. Students are eligible for the Exchange Visitor Program if at any time during their college studies in the United States:

(1) They or their program are financed directly or indirectly by:

- (i) The United States Government;
- (ii) The government of the student's home country; or
- (iii) An international organization of which the United States is a member by treaty or statute;

(2) The programs are carried out pursuant to an agreement between the United States Government and a foreign government;

(3) The program are carried out pursuant to written agreement between:

- (i) American and foreign educational institutions;
- (ii) An American educational institution and a foreign government; or
- (iii) A state or local government in the United States and a foreign government; or

(4) The exchange visitors are supported substantially by funding from any source other than personal or family funds.

(d) *Admissions requirement.* In addition to satisfying the requirements of § 514.10(a), sponsors shall ensure that the exchange visitor student has been admitted to the post-secondary accredited educational institution(s) listed on the Form IAP-66 before issuing the form.

(e) *Full course of study requirement.* Exchange visitor students shall pursue a full course of study at a post-secondary accredited educational institution in the United States as defined in § 514.2, except under the following circumstances:

(1) *Vacation.* During official school breaks and summer vacations if the student is eligible and intends to register for the next term. A student attending a school on a quarter or trimester calendar may be permitted to take the annual vacation during any one of the quarters or trimesters instead of during the summer.

(2) *Medical problem.* If the student is compelled to reduce or interrupt a full course of study due to an illness or medical condition and the student presents to the responsible officer a written statement from a physician requiring or recommending an interruption or reduction in studies.

(3) *Bona fide academic reason.* If the student is compelled to pursue less than a full course of study for a term and the student presents to the responsible officer a written statement from the academic dean or advisor recommending the student to reduce his or her academic load to less than a full course of study due to an academic reason.

(4) *Non-degree program.* If the student is engaged full time in a prescribed course of study in a non-degree program of up to 24 months duration conducted by a post-secondary accredited educational institution.

(5) *Academic training.* If the student is participating in authorized academic training in accordance with § 514.23(f).

(6) *Final term.* If the student needs less than a full course of study to complete the academic requirements in his or her final term.

(f) *Academic training.* (1) A student may participate in academic training programs during his or her studies, without wages or other remuneration, with the approval of the academic dean or advisor and the responsible officer.

(2) A student may be authorized to participate in academic training programs for wages or other remuneration:

- (i) During his or her studies; or

(ii) Commencing not later than thirty (30) days after completion of his or her studies, if the criteria, time limitations, procedures, and evaluations listed below in paragraphs (f) (3) to (6) are satisfied:

(3) *Criteria.*

(i) The student is primarily in the United States to study rather than engage in academic training;

(ii) The student is participating in academic training that is directly related to his or her major field of study at the post-secondary accredited educational institution listed on his or her Form IAP-66;

(iii) The student is in good academic standing with the post-secondary accredited educational institution; and

(iv) The student receives written approval in advance from the responsible officer for the duration and type of academic training.

(4) *Time limitations.* The exchange visitor is authorized to participate in academic training for the length of time necessary to complete the goals and objectives of the training, provided that the amount of time for academic training:

(i) Is approved by the academic dean or advisor and approved by the responsible officer;

(ii) For undergraduate and pre-doctoral training, does not exceed eighteen (18) months, inclusive of any prior academic training in the United States, or the period of full course of study in the United States, whichever is less; except, additional time for academic training is allowed to the extent necessary for the exchange visitor to satisfy the mandatory requirements of his or her degree program in the United States;

(iii) For post-doctoral training, does not exceed a total of thirty-six (36) months, inclusive of any prior academic training in the United States as an exchange visitor, or the period of the full course of study in the United States, whichever is less. A new Form IAP-66 shall be issued for each eighteen (18) month period.

(5) *Procedures.* To obtain authorization to engage in academic training:

(i) The exchange visitor shall present to the responsible officer a letter of

recommendation from the student's academic dean or advisor setting forth:

(A) The goals and objectives of the specific training program;

(B) A description of the training program, including its location, the name and address of the training supervisor, number of hours per week, and dates of the training;

(C) How the training relates to the student's major field of study; and

(D) Why it is an integral or critical part of the academic program of the exchange visitor student.

(ii) The responsible officer shall:

(A) Determine if and to what extent the student has previously participated in academic training as an exchange visitor student, in order to ensure the student does not exceed the period permitted in § 514.23(f);

(B) Review the letter required in paragraph (f)(5)(i) of this section; and

(C) Make a written determination of whether the academic training currently being requested is warranted and the criteria and time limitations set forth in § 514.23(f) (3) and (4) are satisfied.

(6) *Evaluation requirements.* The sponsor shall evaluate the effectiveness and appropriateness of the academic training in achieving the stated goals and objectives in order to ensure the quality of the academic training program.

(g) *Student employment.* Exchange visitor students may engage in part-time employment when the following criteria and conditions are satisfied.

(1) The student employment:

(i) Is pursuant to the terms of a scholarship, fellowship, or assistantship;

(ii) Occurs on the premises of the post-secondary accredited educational institution the visitor is authorized to attend; or

(iii) Occurs off-campus when necessary because of serious, urgent, and unforeseen economic circumstances which have arisen since acquiring exchange visitor status.

(2) Exchange visitor students may engage in employment as provided in paragraph (g)(1) of this section if the:

(i) Student is in good academic standing at the post-secondary accredited educational institution;

(ii) Student continues to engage in a full course of study, except for official school breaks and the student's annual vacation;

(iii) Employment totals no more than 20 hours per week, except during official school breaks and the student's annual vacation; and

(iv) The responsible officer has approved the specific employment in advance and in writing. Such approval may be valid up to twelve months, but is automatically withdrawn if the student's program is terminated.

(h) *Duration of participation*—(1) *Degree students*. Exchange visitor students who are in degree programs shall be authorized to participate in the Exchange Visitor Program as long as they are either:

(i) Studying at the post-secondary accredited educational institution listed on their Form IAP-66 and are:

(A) Pursuing a full course of study as set forth in § 514.23(e), and

(B) Maintaining satisfactory advancement towards the completion of their academic program; or

(ii) Participating in an authorized academic training program as permitted in § 514.23(f).

(2) *Non-degree students*. Exchange visitors who are non-degree students shall be authorized to participate in the Exchange Visitor Program for up to 24 months, if they are either:

(i) Studying at the post-secondary accredited educational institution listed on their Form IAP-66 and are:

(A) Participating full-time in a prescribed course of study; and

(B) Maintaining satisfactory advancement towards the completion of their academic program; or

(ii) Participating in an authorized academic training program as permitted in § 514.23(f).

§ 62.24 Teachers.

(a) *Purpose*. These regulations govern exchange visitors who teach full-time in primary and secondary accredited educational institutions. Programs under § 514.24 promote the interchange of American and foreign teachers in public and private schools and the enhancement of mutual understanding between people of the United States and other countries. They do so by pro-

viding foreign teachers opportunities to teach in primary and secondary accredited educational institutions in the United States, to participate actively in cross-cultural activities with Americans in schools and communities, and to return home ultimately to share their experiences and their increased knowledge of the United States. Such exchanges enable visitors to understand better American culture, society, and teaching practices at the primary and secondary levels, and enhance American knowledge of foreign cultures, customs, and teaching approaches.

(b) *Designation*. The Department of State may, in its discretion, designate *bona fide* programs satisfying the objectives in section (a) above as exchange visitor programs in the teacher category.

(c) *Visitor eligibility*. A foreign national shall be eligible to participate in an exchange visitor program as a full-time teacher if the individual:

(1) Meets the qualifications for teaching in primary or secondary schools in his or her country of nationality or last legal residence;

(2) Satisfies the standards of the U.S. state in which he or she will teach;

(3) Is of good reputation and character;

(4) Seeks to come to the United States for the purpose of full-time teaching at a primary or secondary accredited educational institution in the United States; and

(5) Has a minimum of three years of teaching or related professional experience.

(d) *Visitor selection*. Sponsors shall adequately screen teachers prior to accepting them for the program. Such screening, in addition to the requirements of § 514.10(a), shall include:

(1) Evaluating the qualifications of the foreign applicants to determine whether the criteria set forth in § 514.24(c) are satisfied; and

(2) Securing references from colleagues and current or former employers, attesting to the teachers' good reputation, character and teaching skills.

(e) *Teaching position*. Prior to the issuance of the Form IAP-66, the exchange visitor shall receive a written

offer and accept in writing of a teaching position from the primary or secondary accredited educational institution in which he or she is to teach. Such position shall be in compliance with any applicable collective bargaining agreement, where one exists. The exchange visitor's appointment to a position at a primary or secondary accredited educational institution shall be temporary, even if the teaching position is permanent.

(f) *Program disclosure.* Before the program begins, the sponsor shall provide the teacher, in addition to what is required in § 514.10(b), with:

(1) Information on the length and location(s) of his or her exchange visitor program;

(2) A summary of the significant components of the program, including a written statement of the teaching requirements and related professional obligations; and

(3) A written statement which clearly states the compensation, if any, to be paid to the teacher and any other financial arrangements in regards to the exchange visitor program.

(g) *Location of the exchange.* The teacher shall participate in an exchange visitor program at the primary or secondary accredited educational institution(s) listed on his or her Form IAP-66 and at locations where the institution(s) are involved in official school activities (e.g., school field trips and teacher training programs).

(h) *Duration of participation.* The teacher shall be authorized to participate in the Exchange Visitor Program for the length of time necessary to complete the program, which shall not exceed three years.

§ 62.25 Secondary school students.

(a) *Introduction.* These regulations govern Department of State designated exchange visitor programs under which foreign national secondary students are afforded the opportunity for up to one year of study in a United States public or private secondary school, while living with an American host family or residing at an accredited U.S. boarding school.

(b) *Program sponsor eligibility.* Eligibility for designation as a secondary

school student exchange program sponsor shall be limited to;

(1) Organizations with tax-exempt status as conferred by the Internal Revenue Service pursuant to section 501(c)(3); and

(2) Organizations which are United States citizens as such terms is defined § 514.2.

(c) *Program eligibility.* Secondary school students exchange programs designated by the Department of State shall:

(1) Require all participants to pursue a full course of study at an accredited educational institution as such terms are defined in this Part of not less than one academic semester (or quarter equivalency) nor more than two academic semesters (or quarter equivalency) duration; and

(2) Be conducted on an academic calendar year basis provided, however, participants may begin in the second semester of an academic year if specifically permitted to do so, in writing, by the school in which the exchange visitor is enrolled.

(d) *Program administration.* Sponsors shall ensure that all officers, employees, agents, and volunteers acting on their behalf:

(1) Are adequately trained and supervised;

(2) Make no student placement outside a 150 mile radius of the home of an organizational representative authorized to act on the sponsor's behalf in both routine and emergency matters arising from a student's participation in their exchange program;

(3) Ensure that no organizational representative act as both host family and area supervisor for any student participant whom that organizational representative may host;

(4) Maintain a regular schedule of personal contact with the student and host family, and ensure that the school has contact information for the local organizational representative and U.S. offices of the sponsor; and

(5) Adhere to all regulatory provisions set forth in this Part and all additional terms and conditions governing program administration that the Department of State may from time to time impose.

(e) *Student selection.* In addition to satisfying the requirements of § 514.10(a), sponsors shall ensure that all participants in a designated secondary school student exchange program:

- (1) Are *bona fide* students who:
 - (i) Are secondary school students in their home country who have not completed more than eleven years of primary and secondary study, exclusive of kindergarten; or
 - (ii) Are at least 15 years of age but not more than 18 and six months years of age at the time of initial school enrollment;

(2) Demonstrate maturity, good character, and scholastic aptitude; and

(3) Have not previously participated in an academic year or semester secondary school student exchange program in the United States.

(f) *Student enrollment.* (1) Sponsors shall secure prior written acceptance for the enrollment of any student participant in a United States public or private secondary school. Such prior acceptance shall:

(i) Be secured from the school principal or other authorized school administrator of the school or school system that the student participant will attend; and

(ii) Include written arrangements concerning the payment of tuition or waiver thereof if applicable.

(2) Sponsors shall maintain copies of all written acceptances and make such documents available for Department of State inspection upon request.

(3) Sponsors shall submit to the school a written English language summary of the student's complete academic course work prior to commencement of school.

(4) Under no circumstance shall a sponsor facilitate the entry into the United States of a student for whom a school placement has not been secured.

(5) Sponsors shall not facilitate the enrollment of more than five students in one school unless the school itself has requested, in writing, the placement of more than five students.

(g) *Student orientation.* In addition to the orientation requirements set forth herein at § 514.10, all sponsors shall provide students, prior to their departure

from the home country, with the following information:

(1) A summary of all operating procedures, rules, and regulations governing student participation in the exchange program;

(2) A detailed profile of the school, family, and community in which the student is placed;

(3) A detailed summary of travel arrangements;

(4) An identification card which lists the student's name, United States home placement address and telephone number, and a telephone number which affords immediate contact with both the Department of State and sponsor in case of emergency. Such cards may be provided in advance of home country departure or immediately upon entry into the United States.

(h) *Student extra-curricular activities.* Students may participate in school sanctioned and sponsored extra-curricular activities, including athletics, if such participation is:

(1) Authorized by the local school district in which the student is enrolled; and

(2) Authorized by the state authority responsible for determination of athletic eligibility, if applicable.

(i) *Student employment.* Students may not be employed on either a full or part-time basis but may accept sporadic or intermittent employment such as babysitting or yard work.

(j) *Host family selection.* Sponsors shall adequately screen all potential host families and at a minimum shall:

(1) Provide potential host families with a detailed summary of the exchange program and the parameters of their participation, duties, and obligations;

(2) Utilize a standard application form for all host family applicants which provides a detailed summary and profile of the host family, the physical home environment, family composition, and community environment;

(3) Conduct an in-person interview with all family members residing in the home;

(4) Ensure that the host family is capable of providing a comfortable and nurturing home environment;

(5) Ensure that the host family is a good reputation and character by securing two personal references for each host family from the school or community, attesting to the host family's good reputation and character;

(6) Ensure that the host family has adequate financial resources to undertake hosting obligations; and

(7) Maintain a record of application forms, evaluations, and interviews for all selected host families for a period of three years.

(k) *Host family orientation.* In addition to the orientation requirements set forth in § 514.10, sponsors shall:

(1) Inform all host families of the philosophy, rules, and regulations governing the sponsor's exchange program;

(2) Provide all selected host families with a copy of Department of State-promulgated Exchange Visitor Program regulations; and

(3) Advise all selected host families of strategies governing cross-cultural interaction and conduct workshops which will familiarize the host family with cultural differences and practices.

(l) *Host family placement.* (1) Sponsors shall secure, prior to the student's departure from the home country, a host family placement for each student participant. Sponsors shall not:

(i) Facilitate the entry into the United States for a student for whom a host family placement has not been secured; and

(ii) Place more than one student with a host family without the express prior written consent of the Department of State.

(2) Sponsors shall advise both the student and host family, in writing, of the respective family compositions and backgrounds of each and shall facilitate and encourage the exchange of correspondence between the two prior to the student's departure from the home country.

(3) In the event of unforeseen circumstances which necessitate a change of host family placement, the sponsor shall document the reasons necessitating such change and provide the Department of State with an annual statistical summary reflecting the number and the reason for such change in host family placement.

(m) *Placement report.* In lieu of listing the name and address of the host family and school placement on a participant's Form IAP-66, sponsors must, no later than August 31st of each academic year, submit to the Department of State a report of all academic year program participants. Such report shall set forth the participant's name, school, and host family placements. A report of semester participants entering United States schools during the January to June term shall be submitted to the Department of State by January 15th.

§ 62.26 Specialists.

(a) *Introduction.* These regulations govern experts in a field of specialized knowledge or skill coming to the United States for observing, consulting, or demonstrating special skills, except:

(1) Research scholars and professors, who are governed by regulations set forth at § 514.20;

(2) Short-term scholars, who are governed by regulations set forth at § 514.21; and

(3) Alien physicians in graduate medical education or training, who are governed by regulations set forth in § 514.27.

(b) *Purpose.* The Exchange Visitor Program promotes the interchange of knowledge and skills among foreign and American specialists, who are defined as experts in a field of specialized knowledge or skills, and who visit the United States for the purpose of observing, consulting, or demonstrating their special skills. It does so by providing foreign specialists the opportunity to observe American institutions and methods of practice in their professional fields, and to share their specialized knowledge with their American colleagues. The exchange of specialists promotes mutual enrichment, and furthers linkages among scientific institutions, government agencies, museums, corporations, libraries, and similar types of institutions. Such exchanges also enable visitors to better understand American culture and society and enhance American knowledge of foreign cultures and skills. This category is intended for exchanges with experts in such areas, for example, as

Department of State

§ 62.27

mass media communication, environmental science, youth leadership, international educational exchange, museum exhibitions, labor law, public administration, and library science. This category is not intended for experts covered by the exchange visitor categories listed in § 514.26(a) (1) through (3) of this section.

(c) *Designation.* The Department of State may, in its discretion, designate *bona fide* programs satisfying the objectives in section (b) above as an exchange visitor program in the specialist category.

(d) *Visitor eligibility.* A foreign national shall be eligible to participate in an exchange visitor program as a specialist if the individual:

(1) Is an expert in a field of specialized knowledge or skill;

(2) Seeks to travel to the United States for the purpose of observing, consulting, or demonstrating his or her special knowledge or skills; and

(3) Does not fill a permanent or long-term position of employment while in the United States.

(e) *Visitor selection.* Sponsors shall adequately screen and select specialists prior to accepting them for the program, providing a formal selection process, including at a minimum:

(1) Evaluation of the qualifications of foreign nationals to determine whether they meet the definition of specialist as set forth in § 514.4(g); and

(2) Screening foreign nationals to ensure that the requirements of § 514.10(a) are satisfied.

(f) *Program disclosure.* Before the program begins, the sponsor shall provide the specialist, in addition to what is required in § 514.10(b), with:

(1) Information on the length and location(s) of his or her exchange visitor program;

(2) A summary of the significant components of the program; and

(3) A written statement which clearly states the stipend, if any, to be paid to the specialist.

(g) *Issuance of Form IAP-66.* The Form IAP-66 shall be issued only after the specialist has been accepted by the organization(s) with which he or she will participate in an exchange visitor program.

(h) *Location of the exchange.* The specialist shall participate in an exchange visitor program at the location(s) listed on his or her Form IAP-66.

(i) *Duration of participation.* The specialist shall be authorized to participate in the Exchange Visitor Program for the length of time necessary to complete the program, which shall not exceed one year.

§ 62.27 Alien physicians.

(a) *Purpose.* Pursuant to the Mutual Educational and Cultural Exchange Act, as amended by the Health Care Professions Act, Public Law 94-484, the Department of State facilitates exchanges for foreign medical graduates seeking to pursue graduate medical education or training at accredited schools of medicine or scientific institutions. The Department of State also facilitates exchanges of foreign medical graduates seeking to pursue programs involving observation, consultation, teaching, or research activities.

(b) *Clinical exchange programs.* The Educational Commission for Foreign Medical Graduates must sponsor alien physicians who wish to pursue programs of graduate medical education or training conducted by accredited U.S. schools of medicine or scientific institutions. Such Foreign Medical Graduates shall:

(1) Have adequate prior education and training to participate satisfactorily in the program for which they are coming to the United States;

(2) Be able to adapt to the educational and cultural environment in which they will be receiving their education or training;

(3) Have the background, needs, and experiences suitable to the program as required in § 514.10(a)(1);

(4) Have competency in oral and written English;

(5) Have passed either Parts I and II of the National Board of Medical Examiners Examination, the Foreign Medical Graduate Examination in the Medical Sciences, the United States Medical Licensing Examination, Step I and Step II, or the Visa Qualifying Examination (VQE) prepared by the National Board of Medical Examiners, administered by the Educational Commission for Foreign Medical Graduates.

[NB—Graduates of a school of medicine accredited by the Liaison Committee on Medical Education are exempted by law from the requirement of passing either Parts I and II of the National Board of Medical Examiners Examination or the Visa Qualifying Examination (VQE)]; and

(6) Provide a statement of need from the government of the country of their nationality or last legal permanent residence. Such statement must provide written assurance, satisfactory to the Secretary of Health and Human Services, that there is a need in that country for persons with the skills the alien physician seeks to acquire and shall be submitted to the Educational Commission for Foreign Medical Graduates by the participant's government. The statement of need must bear the seal of the concerned government and be signed by a duly designated official of the government. The text of such statement of need shall read as follows:

Name of applicant for Visa: _____. There currently exists in (Country) a need for qualified medical practitioners in the specialty of _____. (Name of applicant for Visa) has filed a written assurance with the government of this country that he/she will return to this country upon completion of training in the United States and intends to enter the practice of medicine in the specialty for which training is being sought. Stamp (or Seal and signature) of issuing official of named country.
Dated: _____

Official of Named Country.

(7) Submit an agreement or contract from a U.S. accredited medical school, an affiliated hospital, or a scientific institution to provide the accredited graduate medical education. The agreement or contract must be signed by both the alien physician and the official responsible for the training.

(c) *Non-clinical exchange programs.* (1) A United States university or academic medical center which has been designated an exchange visitor program by the Secretary of State of the Department of State is authorized to issue Form IAP-66 to alien physicians to enable them to come to the United States for the purposes of observation, consultation, teaching, or research if:

(i) The responsible officer or duly designated alternate of the exchange

visitor program involved signs and appends to the Form IAP-66 a certification which states "this certifies that the program in which (name of physician) is to be engaged is solely for the purpose of observation, consultation, teaching, or research and that no element of patient care is involved" or

(ii) The dean of the involved accredited United States medical school or his or her designee certifies to the following five points and such certification is appended to the Form IAP-66 issued to the perspective exchange visitor alien physician:

(A) The program in which (name of physician) will participate is predominantly involved with observation, consultation, teaching, or research.

(B) Any incidental patient contact involving the alien physician will be under the direct supervision of a physician who is a U.S. citizen or resident alien and who is licensed to practice medicine in the State of _____.

(C) The alien physician will not be given final responsibility for the diagnosis and treatment of patients.

(D) Any activities of the alien physician will conform fully with the State licensing requirements and regulations for medical and health care professionals in the State in which the alien physician is pursuing the program.

(E) Any experience gained in this program will not be creditable towards any clinical requirements for medical specialty board certification.

(2) The Educational Commission for Foreign Medical Graduates may also issue Form IAP-66 to alien physicians who are coming to the United States to participate in a program of observation, consultation, teaching, or research provided the required letter of certification as outlined in this paragraph is appended to the Form IAP-66.

(d) *Public health and preventive medicine programs.* A United States university, academic medical center, school of public health, or other public health institution which has been designated as an exchange visitor program sponsor by the Secretary of State of the Department of State is authorized to issue Forms IAP-66 to alien physicians to enable them to come to the United States for the purpose of entering into those programs which do not include

Department of State

§ 62.27

any clinical activities involving direct patient care. Under these circumstances, the special eligibility requirements listed in paragraphs (b) and (c) of this section need not be met. The responsible officer or alternate responsible officer of the exchange visitor program involved shall append a certification to the Form IAP-66 which states.

This certifies that the program in which (name of physician) is to be engaged does not include any clinical activities involving direct patient care.

(e) *Duration of participation.* (1) The duration of an alien physician's participation in a program of graduate medical education or training as described in paragraph (b) of this section is limited to the time typically required to complete such program. Duration shall be determined by the Secretary of State of the Department of State at the time of the alien physician's entry into the United States. Such determination shall be based on criteria established in coordination with the Secretary of Health and Human Services and which take into consideration the requirements of the various medical specialty boards as evidenced in the Director of Medical Specialties published by Marquis Who's Who for the American Board of Medical Specialties.

(2) Duration of participation is limited to seven years unless the alien physician has demonstrated to the satisfaction of the Secretary of State that the country to which the alien physician will return at the end of additional specialty education or training has an exceptional need for an individual with such additional qualification.

(3) Subject to the limitations set forth above, duration of participation may, for good cause shown, be extended beyond the period of actual training or education to include the time necessary to take an examination required for certification by a specialty board.

(4) The Secretary of State may include within the duration of participation a period of supervised medical practice in the United States if such practice is an eligibility requirement for certification by a specialty board.

(i) Alien physicians shall be permitted to undertake graduate medical education or training in a specialty or subspecialty program whose board requirements are not published in the Director of Medical Specialists if the Board requirements are certified to the Secretary of State and to the Educational Commission for Foreign Medical Graduates by the Executive Secretary of the cognizant component board of the American Board of Medical Specialties.

(ii) The Secretary of State may, for good cause shown, grant an extension of the program to permit an alien physician to repeat one year of clinical medical training.

(5) The alien physician must furnish the Attorney General each year with an affidavit (Form I-644) that attests the alien physician:

(i) Is in good standing in the program of graduate medical education or training in which the alien physician is participating; and

(ii) Will return to the country of his nationality or last legal permanent resident upon completion of the education or training for which he came to the United States.

(f) *Change of program.* The alien physician may, once and not later than two years after the date the alien physician enters the United States as an exchange visitor or acquires exchange visitor status, change his designated program of graduate medical education or training if the Secretary of State approves the change and if the requirements of paragraphs §514.27(b) and §514.27(e) of this section are met for the newly designated specialty.

(g) *Applicability of section 212(e) of the Immigration and Nationality Act.* (1) Any exchange visitor physician coming to the United States on or after January 10, 1977 for the purpose of receiving graduate medical education or training is automatically subject to the two-year home-country physical presence requirement of section 212(e) of the Immigration and Nationality Act, as amended. Such physicians are not eligible to be considered for section 212(e) waivers on the basis of "No Objection" statements issued by their governments.

§ 62.28

22 CFR Ch. I (4–1–00 Edition)

(2) Alien physicians coming to the United States for the purpose of observation, consultation, teaching, or research are not automatically subject to the two-year home-country physical presence requirement of section 212(e) of the Immigration and Nationality Act, as amended, but may be subject to this requirement if they are governmentally financed or pursuing a field of study set forth on their countries' Exchange Visitor Skills List. Such alien physicians are eligible for consideration of waivers under section 212(e) of the Immigration and Nationality Act, as amended, on the basis of "No Objection" statements submitted by their governments in their behalf through diplomatic channels to the Secretary of State of the Department of State.

[58 FR 15196, Mar. 19, 1993; 58 FR 48448, Sept. 16, 1993. Redesignated at 64 FR 54539, Oct. 7, 1999]

§ 62.28 International visitors.

(a) *Purpose.* The international visitor category is for the exclusive use of the Department of State. Programs under § 514.28 are for foreign nationals who are recognized or potential leaders and are selected by the Department of State to participate in observation tours, discussions, consultation, professional meetings, conferences, workshops, and travel. These programs are designed to enable the international visitors to better understand American culture and society and contribute to enhanced American knowledge of foreign cultures. The category is for people-to-people programs which seek to develop and strengthen professional and personal ties between key foreign nationals and Americans and American institutions.

(b) *Selection.* The Department of State and third parties assisting the Department of State shall adequately screen and select prospective international visitors to determine compliance with § 514.10(a) and the visitor eligibility requirements set forth below.

(c) *Visitor eligibility.* An individual participating in an exchange visitor program as an international visitor shall be:

(1) Selected by the Department of State;

(2) Engaged in consultation, observation, research, training, or demonstration of special skills; and

(3) A recognized or potential leader in a field of specialized knowledge or skill.

(d) *Program disclosure.* At the beginning of the program, the sponsor shall provide the international visitor with:

(1) Information on the length and location(s) of his or her exchange visitor program; and

(2) A summary of the significant components of the program.

(e) *Issuance of Form IAP-66.* The Form IAP-66 shall be issued only after the international visitor has been selected by the Department of State.

(f) *Location of the exchange.* The international visitor shall participate in an exchange visitor program at locations approved by the Department of State.

(g) *Duration of participation.* The international visitor shall be authorized to participate in the Exchange Visitor Program for the length of time necessary to complete the program, which shall not exceed one year.

§ 62.29 Government visitors.

(a) *Purpose.* The government visitor category is for the exclusive use of the U.S. federal, state, or local government agencies. Programs under § 514.29 are for foreign nationals who are recognized as influential or distinguished persons, and are selected by U.S. federal, state, or local government agencies to participate in observation tours, discussions, consultation, professional meetings, conferences, workshops, and travel. These are people-to-people programs designed to enable government visitors to better understand American culture and society, and to contribute to enhanced American knowledge of foreign cultures. The objective is to develop and strengthen professional and personal ties between key foreign nationals and Americans and American institutions. The government visitor programs are for such persons as editors, business and professional persons, government officials, and labor leaders.

(b) *Designation.* The Department of State may, in its sole discretion, designate as sponsors U.S. federal, state, and local government agencies which

Department of State

§ 62.30

offer foreign nationals the opportunity to participate in people-to-people programs which promote the purpose as set forth in (a) above.

(c) *Selection.* Sponsors shall adequately screen and select prospective government visitors to determine compliance with § 514.10(a) and the visitor eligibility requirements set forth below.

(d) *Visitor eligibility.* An individual participating in an exchange visitor program as a government visitor shall be:

(1) Selected by a U.S. federal, state, and local government agency;

(2) Engaged in consultation, observation, training, or demonstration of special skills; and

(3) An influential or distinguished person.

(e) *Program disclosure.* Before the beginning of the program, the sponsor shall provide the government visitor with:

(1) Information on the length and location(s) of his or her exchange visitor program;

(2) A summary of the significant components of the program; and

(3) A written statement which clearly states the stipend, if any, to be paid to the government visitor.

(f) *Issuance of Form IAP-66.* The Form IAP-66 shall be issued only after the government visitor has been selected by a U.S. federal, state, or local government agency and accepted by the private and/or public organization(s) with whom he or she will participate in the exchange visitor program.

(g) *Location of the exchange.* The government visitor shall participate in an exchange visitor program at the locations listed on his or her Form IAP-66.

(h) *Duration of participation.* The government visitor shall be authorized to participate in the Exchange Visitor Program for the length of time necessary to complete the program, which shall not exceed eighteen months.

§ 62.30 Camp counselors.

(a) *Introduction.* In order to promote diverse opportunities for participation in educational and cultural exchange programs, the Department of State designates exchange sponsors to facilitate the entry of foreign nationals to

serve as counselors in U.S. summer camps. These programs promote international understanding by improving American knowledge of foreign cultures while enabling foreign participants to increase their knowledge of American culture. The foreign participants are best able to carry out this objective by serving as counselors *per se*, that is, having direct responsibility for supervision of groups of American youth and of activities that bring them into interaction with their charges. While it is recognized that some non-counseling chores are an essential part of camp life for all counselors, this program is not intended to assist American camps in bringing in foreign nationals to serve as administrative personnel, cooks, or menial laborers, such as dishwashers or janitors.

(b) *Participant eligibility.* Participation in camp counselor exchange programs is limited to foreign nationals who:

(1) Are at least 18 years of age;

(2) Are *bona fide* youth workers, students, teachers, or individuals with specialized skills; and

(c) *Participant selection.* In addition to satisfying the requirements in § 514.10(a), sponsors shall adequately screen all international candidates for camp counselor programs and at a minimum:

(1) Conduct an in-person interview; and

(2) Secure references from a participant's employer or teacher regarding his or her suitability for participation in a camp counselor exchange.

(d) *Participant orientation.* Sponsors shall provide participants, prior to their departure from the home country, detailed information regarding:

(1) Duties and responsibilities relating to their service as a camp counselor;

(2) Contractual obligations relating to their acceptance of a camp counselor position; and

(3) Financial compensation for their service as a camp counselor.

(e) *Participant placements.* Sponsors shall place eligible participants at camping facilities which are:

(1) Accredited;

(2) A member in good standing of the American Camping Association;

(3) Officially affiliated with a nationally recognized non-profit organization; or

(4) Have been inspected, evaluated, and approved by the sponsor.

(f) *Participant compensation.* Sponsors shall ensure that international participants receive pay and benefits commensurate with those offered to their American counterparts.

(g) *Participant supervision.* Sponsors shall provide all participants with a phone number which allows 24 hour immediate contact with the sponsor.

(h) *Program administration.* Sponsors shall:

(1) Comply with all provisions set forth in subpart A of this part;

(2) Not facilitate the entry of any participant for a program of more than four months duration; and

(3) Under no circumstance facilitate the entry into the United States of a participant for whom a camp placement has not been pre-arranged.

(i) *Placement report.* In lieu of listing the name and address of the camp facility at which the participant is placed on Form IAP-66, sponsors shall submit to the Department of State, no later than July 1st of each year, a report of all participant placements. Such report shall reflect the participant's name, camp placement, and the number of times the participant has previously participated in a camp counselor exchange.

(j) In order to ensure that as many different individuals as possible are recruited for participation in camp counselor programs, sponsors shall limit the number of participants who have previously participated more than once in any camp counselor exchange to not more than ten percent of the total number of participants that the sponsor placed in the immediately preceding year.

[58 FR 15196, Mar. 19, 1993, as amended at 59 FR 16984, Apr. 11, 1994. Redesignated at 64 FR 54539, Oct. 7, 1999]

§ 62.31 Au pairs.

(a) *Introduction.* These regulations govern Department of State-designated exchange visitor programs under which foreign nationals are afforded the opportunity to live with an American host family and participate directly in

the home life of the host family while providing limited child care services and attending a U.S. post-secondary educational institution.

(b) *Program designation.* The Department of State may, in its sole discretion, designate bona fide programs satisfying the objectives set forth in paragraph (a) of this section. Such designation shall be for a period of two years and may be revoked by the Department of State for good cause.

(c) *Program eligibility.* Sponsors designated by the Department of State to conduct an au pair exchange program shall:

(1) Limit the participation of foreign nationals in such programs to not more than one year;

(2) Limit the number of hours an au pair participant is obligated to provide child care services to not more than 45 hours per week;

(3) Require that the au pair participant register and attend classes offered by an accredited U.S. post-secondary institution for not less than six semester hours of academic credit or its equivalent;

(4) Require that all officers, employees, agents, and volunteers acting on their behalf are adequately trained and supervised;

(5) Require that the au pair participant is placed with a host family within one hour's driving time of the home of the local organizational representative authorized to act on the sponsor's behalf in both routine and emergency matters arising from the au pair's participation in their exchange program;

(6) Require that each local organizational representative maintain a record of all personal monthly contacts (or more frequently as required) with each au pair and host family for which he or she is responsible and issues or problems discussed;

(7) Require that all local organizational representatives contact au pair participants and host families twice monthly for the first two months following a placement other than the initial placement for which the au pair entered the United States.

(8) Require that local organizational representatives not devoting their full time and attention to their program obligations are responsible for no more

than fifteen au pairs and host families; and

(9) Require that each local organizational representative is provided adequate support services by a regional organizational representative.

(d) *Au pair selection.* In addition to satisfying the requirements of § 514.10(a), sponsors shall ensure that all participants in a designated au pair exchange program:

(1) Are between the ages of 18 and 26;
(2) Are a secondary school graduate, or equivalent;

(3) Are proficient in spoken English;

(4) Are capable of fully participating in the program as evidenced by the satisfactory completion of a physical;

(5) Have been personally interviewed, in English, by an organizational representative who shall prepare a report of the interview which shall be provided to the host family; and

(6) Have successfully passed a background investigation that includes verification of school, three, non-family related personal and employment references, a criminal background check or its recognized equivalent and a personality profile. Such personality profile will be based upon a psychometric test designed to measure differences in characteristics among applicants against those characteristics considered most important to successfully participate in the au pair program.

(e) *Au pair placement.* Sponsors shall secure, prior to the au pair's departure from the home country, a host family placement for each participant. Sponsors shall not:

(1) Place an au pair with a family unless the family has specifically agreed that a parent or other responsible adult will remain in the home for the first three days following the au pair's arrival;

(2) Place an au pair with a family having a child aged less than three months unless a parent or other responsible adult is present in the home;

(3) Place an au pair with a host family having children under the age of two, unless the au pair has at least 200 hours of documented infant child care experience;

(4) Place an au pair with a host family having a special needs child, as so

identified by the host family, unless the au pair has specifically identified his or her prior experience, skills, or training in the care of special needs children and the host family has reviewed and acknowledged in writing the au pair's prior experience, skills, or training so identified;

(5) Place the au pair with a family unless a written agreement between the au pair and host family outlining the au pair's obligation to provide not more than 45 hours of child care services per week has been signed by both;

(6) Place the au pair with a family who cannot provide the au pair with a suitable private bedroom; and

(7) Place an au pair with a host family unless the host family has interviewed the au pair by telephone prior to the au pair's departure from his or her home country.

(f) *Au pair orientation.* In addition to the orientation requirements set forth at § 514.10, all sponsors shall provide au pairs, prior to their departure from the home country, with the following information:

(1) A copy of all operating procedures, rules, and regulations, including a grievance process, which govern the au pair's participation in the exchange program;

(2) A detailed profile of the family and community in which the au pair will be placed;

(3) A detailed profile of the educational institutions in the community where the au pair will be placed, including the financial cost of attendance at these institutions;

(4) A detailed summary of travel arrangements; and

(5) A copy of the Department of State's written statement and brochure regarding the au pair program.

(g) *Au pair training.* Sponsors shall provide the au pair participant with child development and child safety instruction, as follows:

(1) Prior to placement with the host family, the au pair participant shall receive not less than eight hours of child safety instruction no less than 4 of which shall be infant-related; and

(2) Prior to placement with the American host family, the au pair participant shall receive not less than twenty-four hours of child development

instruction of which no less than 4 shall be devoted to specific training for children under the age of two.

(h) *Host family selection.* Sponsors shall adequately screen all potential host families and at a minimum shall:

(1) Require that the host parents are U.S. citizens or legal permanent residents;

(2) Require that host parents are fluent in spoken English;

(3) Require that all adult family members resident in the home have been personally interviewed by an organizational representative;

(4) Require that host parents and other adults living full-time in the household have successfully passed a background investigation including employment and personal character references;

(5) Require that the host family have adequate financial resources to undertake all hosting obligations;

(6) Provide a written detailed summary of the exchange program and the parameters of their and the au pair's duties, participation, and obligations; and

(7) Provide the host family with the prospective au pair participant's complete application, including all references.

(i) *Host family orientation.* In addition to the requirements set forth at § 514.10 sponsors shall:

(1) Inform all host families of the philosophy, rules, and regulations governing the sponsor's exchange program and provide all families with a copy of the Department of State's written statement and brochure regarding the au pair program;

(2) Provide all selected host families with a complete copy of Department of State-promulgated Exchange Visitor Program regulations, including the supplemental information thereto;

(3) Advise all selected host families of their obligation to attend at least one family day conference to be sponsored by the au pair organization during the course of the placement year. Host family attendance at such a gathering is a condition of program participation and failure to attend will be grounds for possible termination of their continued or future program participation; and

(4) Require that the organization's local counselor responsible for the au pair placement contacts the host family and au pair within forth-eight hours of the au pair's arrival and meets, in person, with the host family and au pair within two weeks of the au pair's arrival at the host family home.

(j) *Wages and hours.* Sponsors shall require that au pair participants:

(1) Are compensated at a weekly rate based upon 45 hours per week and paid in conformance with the requirements of the Fair Labor Standards Act as interpreted and implemented by the United States Department of Labor;

(2) Do not provide more than 10 hours of child care on any given day, nor more than 45 hours of child care in any one week;

(3) Receive a minimum of one and a half days off per week in addition to one complete weekend off each month; and

(4) Receive two weeks of paid vacation.

(k) *Educational component.* Sponsors shall require that during the period of program participation, all au pair participants are enrolled in an accredited post-secondary institution for not less than six hours of academic credit or its equivalent. As a condition of program participation, host family participants must agree to facilitate the enrollment and attendance of the au pair and to pay the cost of such academic course work in an amount not to exceed \$500.

(l) *Monitoring.* Sponsors shall fully monitor all au pair exchanges, and at a minimum shall:

(1) Require monthly personal contact by the local counselor with each au pair and host family for which the counselor is responsible. Counselors shall maintain a record of this contact;

(2) Require quarterly contact by the regional counselor with each au pair and host family for which the counselor is responsible. Counselors shall maintain a record of this contact;

(3) Require that all local and regional counselors are appraised of their obligation to report unusual or serious situations or incidents involving either the au pair or host family; and

(4) Promptly report to the Department of State any incidents involving

Department of State

§ 62.32

or alleging a crime of moral turpitude or violence.

(m) *Reporting requirements.* Along with the annual report required by regulations set forth at § 514.17, sponsors shall file with the Department of State the following information:

(1) A summation of the results of an annual survey of all host family and au pair participants regarding satisfaction with the program, its strengths and weaknesses;

(2) A summation of all complaints regarding host family or au pair participation in the program, specifying the nature of the complaint, its resolution, and whether any unresolved complaints are outstanding;

(3) A summation of all situations which resulted in the placement of au pair participant with more than one host family;

(4) A report by a certified public accountant, conducted pursuant to a format designated by the Department of State, attesting to the sponsor's compliance with the procedures and reporting requirements set forth in this subpart;

(5) A report detailing the name of the au pair, his or her host family placement, location, and the names of the local and regional organizational representatives; and

(6) A complete set of all promotional materials, brochures, or pamphlets distributed to either host family or au pair participants.

(n) *Sanctions.* In addition to the sanctions provisions set forth at § 514.50, the Department of State may undertake immediate program revocation procedures upon documented evidence that a sponsor has failed to:

(1) Comply with the au pair placement requirements set forth in paragraph (e) of this section;

(2) Satisfy the selection requirements for each individual au pair as set forth in paragraph (d) of this section; and

(3) Enforce and monitor host family's compliance with the stipend and hours requirements set forth in paragraph (j) of this section.

§ 62.32 Summer work travel.

(a) *Introduction.* These regulations govern program participation in summer work travel programs conducted by Department of State-designated sponsors pursuant to the authority granted the Department of State by Public Law 105-277. These programs provide foreign post-secondary students the opportunity to work and travel in the United States for a four month period during their summer vacations. Extensions of program participation are not permitted.

(b) *Participant selection and screening.* In addition to satisfying the requirements set forth at § 514.10(a), sponsors shall adequately screen all program participants and at a minimum shall:

(1) Conduct an in-person interview;

(2) Ensure that the participant is a bona fide post-secondary school student in his or her home country; and

(3) Ensure that not more than ten percent of selected program participants have previously participated in a summer work travel program.

(c) *Participant orientation.* Sponsors shall provide program participants, prior to their departure from the home country, information regarding:

(1) The name and location of their employer, if prior employment has been arranged; and

(2) Any contractual obligations related to their acceptance of paid employment in the United States, if prior employment has been arranged.

(d) *Participant placement.* Sponsors shall ensure that not less than 50 percent of their program participants have pre-arranged employment with a U.S. employer. For all program participants for whom pre-arranged employment has not been secured sponsors shall:

(1) Ensure that the participant has sufficient financial resources to support him or herself during his or her search for employment;

(2) Provide the participant with pre-departure information that explains how to seek employment and how to secure lodging in the United States;

(3) Prepare and provide to program participants a roster of bona fide job listings equal to or greater than the number of participants for whom pre-arranged employment has not been secured; and,

[60 FR 8552, Feb. 15, 1995, as amended at 62 FR 34633, June 27, 1997; 64 FR 53930, Oct. 5, 1999. Redesignated at 64 FR 54539, Oct. 7, 1999]

§ 62.40

(4) Undertake reasonable efforts to secure suitable employment for any participant who has not found suitable employment within one week of commencing his or her job search.

(e) *Participant compensation.* Sponsors shall advise program participants regarding Federal Minimum Wage requirements and shall ensure that participants receive pay and benefits commensurate with those offered to their American counterparts.

(f) *Monitoring.* Sponsors shall provide:

(1) All participants with a telephone number which allows 24-hour immediate contact with the sponsor; and

(2) Appropriate assistance to program participants on an as-needed emergency basis.

(g) *Use of third parties.* Program sponsors are responsible for full compliance with all Exchange Visitor Program regulations. If a program sponsor elects to utilize a third-party to provide U.S. hosting, orientation, placement, or other support services to participants for whom they have facilitated entry into the United States, such sponsor shall closely oversee the provision of these services by the third-party and ensure that the provision of these services satisfies all regulatory obligations.

(h) *Placement report.* In lieu of listing the name and address of the participant's pre-arranged employer on the form IAP-66, sponsors shall submit to the a report of all participant placements. Sponsors shall report the name, place of employment, and the number of times each participant has participated in a summer work travel program. In addition, for participants for whom employment was not pre-arranged, the sponsor shall also list the length of time it took for such participant to find employment. Such report shall be submitted semi-annually on January 30th and July 31st of each year and shall reflect placements made in the preceding six month period.

(i) *Unauthorized activities.* Program participants may not be employed as domestic employees in United States households or in positions that require the participant to invest his or her own monies to provide themselves with in-

ventory for the purpose of door-to-door sales.

[64 FR 17976, Apr. 13, 1999; 64 FR 54539, Oct. 7, 1999. Redesignated at 64 FR 54539, Oct. 7, 1999]

Subpart C—Status of Exchange Visitors

§ 62.40 Termination of program participation.

(a) A sponsor shall terminate an exchange visitor's participation in its program when the exchange visitor:

(1) Fails to pursue the activities for which he or she was admitted to the United States;

(2) Is unable to continue, unless otherwise exempted pursuant to these regulations;

(3) Violates the Exchange Visitor Program regulations and/or the sponsor's rules governing the program, if, in the sponsor's opinion, termination is warranted;

(4) Willfully fails to maintain the insurance coverage required under § 514.14 of these regulations; or

(b) An exchange visitor's participation in the Exchange Visitor Program is subject to termination when he or she engages in unauthorized employment. Upon establishing such violation, the Department of State shall terminate the exchange visitor's participation in the Exchange Visitor Program.

§ 62.41 Change of category.

(a) The Department of State may, in its discretion, permit an exchange visitor to change his or her category of exchange participation. Any change in category must be clearly consistent with and closely related to the participant's original exchange objective and necessary due to unusual or exceptional circumstances.

(b) A request for change of category along with supporting justification must be submitted to the Department of State by the participant's sponsor. Upon Department of State approval the sponsor shall issue to the exchange visitor a duly executed Form IAP-66 reflecting such change of category and provide a notification copy of such form to the Department of State.

Department of State

§ 62.45

(c) Requests for change of category from research scholar to student will be evaluated recognizing the fact that, in some cases, research skills can be substantially enhanced by doctoral study.

(d) An exchange visitor who applies for a change of category pursuant to these regulations is considered to be maintaining lawful status during the pendency of the application.

(e) An exchange visitor who applies for a change of category and who subsequently receives notice from the Department of State that the request has been denied is considered to be maintaining lawful status for an additional period of thirty days from the day of such notice, during which time the exchange visitor is expected to depart the country, or for a period of thirty days from expiration of the exchange visitors' Form IAP-66, whichever is later.

§ 62.42 Transfer of program.

(a) Program sponsors may, pursuant to the provisions set forth in this section, permit an exchange visitor to transfer from one designated program to another designated program.

(b) The responsible officer of the program to which the exchange visitor is transferring:

(1) Shall verify the exchange visitor's visa status and program eligibility;

(2) Execute the Form IAP-66; and

(3) Secure the written release of the current sponsor.

(c) Upon return of the completed Form IAP-66, the responsible officer of the program to which the exchange visitor has transferred shall provide:

(1) The exchange visitor his or her copy of the Form IAP-66; and

(2) A notification copy of such form to the Department of State.

§ 62.43 Extension of Program.

(a) Responsible officers may extend an exchange visitor's participation in the Exchange Visitor Program up to the limit of the permissible period of participation authorized for his or her specific program category.

(b) A responsible officer extending the program of an exchange visitor shall issue to the exchange visitor a duly executed Form IAP-66 reflecting such extension and provide a notifica-

tion copy of such form to the Department of State.

(c) The responsible officer seeking a program extension on behalf of an exchange visitor in excess of that authorized for his or her specific category of participation shall:

(1) Adequately document the reasons which justify such extension; and

(2) Secure the prior written approval of the Department of State for such extension.

(d) In addition to individual requests, the Department of State shall entertain requests for groups of similarly situated exchange visitors.

§ 62.45 Reinstatement to valid program status.

(a) *Definitions.* For purpose of this section—

You means the Responsible Officer or Alternate Responsible Officer;

Exchange visitor means the person who enters the United States on a J visa in order to participate in an exchange program designated by the Secretary of State of the Department of State.

Fails or failed maintain valid program status means the status of an exchange visitor who has completed, concluded, ceased, interrupted, graduated from, or otherwise terminated the exchange visitor's participation in the exchange program, or who remains in the United States beyond the end date on the exchange visitor's current Form IAP-66.

Unauthorized employment means any employment not properly authorized by you or by the Attorney General, i.e., the Immigration and Naturalization Service, prior to commencement of employment. Unauthorized employment does not include activities that are normally approvable, as described in paragraph (c)(3) of this section.

We, our, or us means the office of Exchange Visitor Program Services of the Department of State.

(b) *Who is authorized to correct minor or technical infractions of the Exchange Visitor Program regulations?* (1) If the exchange visitor committed a technical or minor infraction of the regulations, you are authorized to correct the exchange visitor's records with respect to such technical or minor infractions of

the regulations in this part. Your correction of such an infraction(s) returns the exchange visitor to the status quo ante, i.e., it is as if the infraction never occurred.

(2) You may only correct the exchange visitor's record with respect to a technical or minor infraction of the regulations in this part if the exchange visitor is pursuing or intending to pursue the exchange visitor's original program objective.

(3) You may not correct the exchange visitor's records with respect to a technical or minor infraction of the regulations in this part if the exchange visitor has willfully failed to maintain insurance coverage during the period for which the record is being corrected; if the exchange visitor has engaged in unauthorized employment during that period, as defined in paragraph (a) of this section, or if the exchange visitor was involuntarily suspended or terminated from his or her program during the period.

(4) If the exchange visitor has failed to maintain valid program status because of a substantive violation of the regulations in this part, you must apply to us for reinstatement.

(c) *What violations or infractions of the regulations in this part do we consider to be technical or minor ones, and how do you correct the record?* We consider the following to be examples of technical or minor infractions which you are authorized to correct:

(1) Failure to extend the Form IAP-66 in a timely manner (i.e., prior to the end date on the current Form IAP-66) due to inadvertence or neglect on your part or on the part of the exchange visitor.

(2) Failure on the part of the exchange visitor to conclude a transfer of program prior to the end date on the current Form IAP-66 due to administrative delay or oversight, inadvertence or neglect on your part or on the part of the exchange visitor;

(3) Failure to receive your prior approval and/or an amended Form IAP-66 before accepting an honorarium or other type of payment for engaging in a normally approvable and appropriate activity. Example, a lecture, consultation, or other activity appropriate to the category which is provided by a

professor, research scholar, short-term scholar or specialist without prior approval or an amended Form IAP-66 issued prior to the occurrence of the activity.

(4) You correct the record *status quo ante* by issuing a Form IAP-66 or by writing an authorization letter to reflect the continuity in the program or the permission to engage in the activity that a timely issued document would have reflected.

(i) Forms IAP-66 should be:

(A) Issued to show continued authorized stay without interruption;

(B) Marked in the "purpose" box with the appropriate purpose (i.e., extension, transfer, etc.) and with the additional notation of "correct the record" typed in;

(C) Dated as of the date the Form was actually executed; and,

(D) Submitted to the Department of State in the same way as any other notification.

(ii) Letters or other authorization documents should be:

(A) Issued according to the regulations in this part appropriate to the category and the activity;

(B) Marked or annotated to show "correct the record,"

(C) Dated as of the date the letter or document was actually executed; and,

(D) Attached to the exchange visitor's Form IAP-66 and/or retained in the sponsor's file as required by the regulations in this part for that particular type of letter or document.

(d) *How do you determine if an infraction, other than those examples listed above is a technical or minor infraction?* It is impossible to list every example of a technical or minor infraction. To guide you in making a determination, you are to examine the following criteria:

(1) Regardless of the reason, has the exchange visitor failed to maintain valid program status for more than 120 calendar days after the end date on the current Form IAP-66?

(2) Has the exchange visitor, by his or her actions, failed to maintain, at all relevant times, his or her original program objective?

(3) Has the exchange visitor willfully failed to comply with our insurance coverage requirements (§514.14)?

Department of State

§ 62.45

(4) Has the exchange visitor engaged in unauthorized employment, as that term is defined in paragraph (a) of this section?

(5) Has the exchange visitor category been involuntarily suspended or terminated from his or her program?

(6) Has an exchange visitor in the student category failed to maintain a full course of study (as defined in § 514.2) without prior consultation with you and the exchange visitor's academic advisor?

(7) Has the exchange visitor failed to pay the fee mandated by Public Law 104-208 (the "CIPRIS" fee)?

(8) If the answer to any of the above questions is "yes," then the infraction is not a technical or minor one and you are not authorized to reinstate the exchange visitor to valid program status.

(e) *Which violations or infractions do we consider to be substantive ones requiring you to apply to us for reinstatement?* The following are substantive violations or infractions of the regulations in this part by the exchange visitor which require you to apply to us for reinstatement to valid program status:

(1) Failure to maintain valid program status for more than 120 days after the end date on the current Form IAP-66;

(2) If a student, failure to maintain a full course of study (as defined in § 514.2) without prior consultation with you and the exchange visitor's academic advisor.

(f) *Which, if any, violations of the regulations in this part or other conditions preclude reinstatement and will result in a denial if application is made?* We will not consider requests for reinstatement (nor should you) when an exchange visitor has:

(1) Knowingly or willfully failed to obtain or maintain the required health insurance (§ 514.14) at all times while in the United States;

(2) Engaged in unauthorized employment, as that term is defined in paragraph (a) of this section;

(3) Been suspended or terminated from the most recent exchange visitor program;

(4) Failed to maintain valid program status for more than 270 calendar days;

(5) Received a favorable recommendation from the Department of State on an application for waiver of section

212(e) of the Immigration and Nationality Act [8 U.S.C. 1182(e)]; or,

(6) Failed to pay the fee mandated by Public Law 104-208 (the "CIPRIS" fee.)

(g) *What if you cannot determine which category (technical, substantive, or non-reinstatable) the violation or infraction falls within?* If you cannot determine which category the violation or condition falls within, then you must, on behalf of the exchange visitor, apply to us for reinstatement.

(h) *If you determine that the exchange visitor's violation of the regulations in this part is a substantive one, how do you apply for a reinstatement to valid program status?* (1) If you determine that the violation of the regulations in this part is a substantive one, and that the exchange visitor has failed to maintain valid program status for 120 days or less, you must apply to us for reinstatement of the exchange visitor to valid program status. Your application must include:

(i) All copies of the exchange visitor's Forms IAP-66 issued to date;

(ii) A new, completed Form IAP-66, showing in Block 3 the date of the period for which reinstatement is sought, i.e., the new program end date;

(iii) A copy of the receipt showing that the Public Law 104-208 fee has been paid; and,

(iv) A written statement (and documentary information supporting such statement):

(A) Declaring that the exchange visitor is pursuing or was at all times intending to pursue the original exchange visitor program activity for which the exchange visitor was admitted to the United States; and,

(B) Showing that the exchange visitor failed to maintain valid program status due to circumstances beyond the control of the exchange visitor, or from administrative delay or oversight, inadvertence, or excusable neglect on your part or the exchange visitor's part; or,

(C) Showing that it would be an unusual hardship to the exchange visitor if we do not grant the reinstatement to valid program status.

(2) If you determine that the violation of the regulations is a substantive one, and that the exchange visitor has failed to maintain valid program status

§ 62.50

22 CFR Ch. I (4–1–00 Edition)

for more than 120 days, then you must apply to us for reinstatement of the exchange visitor to valid program status. Your application must include:

(i) Copies of all the exchange visitor's Forms IAP-66 issued to date;

(ii) A new, completed Form IAP-66, showing in Block 3 the date for which reinstatement is sought, i.e., the new program end date;

(iii) A copy of the receipt showing that the Pub. L. 104-208 fee has been paid; and,

(iv) A written statement (together with documentary evidence supporting such statement):

(A) Declaring that the exchange visitor is pursuing or was at all times intending to pursue the exchange visitor program activity for which the exchange visitor was admitted to the United States; and,

(B) Showing that the exchange visitor failed to maintain valid program status due to circumstances beyond the control of the exchange visitor, or from administrative delay or oversight, inadvertence, or excusable neglect on your part or the exchange visitor's part; and,

(C) Showing that it would be an unusual hardship to the exchange visitor if we do not grant the reinstatement to valid program status.

(i) *How will we notify you of our decision on your request for reinstatement?* (1) If we deny your request for reinstatement, we will notify you by letter.

(2) If we approve your request for reinstatement, we will notify you:

(i) By stamping Box 6 on the new Form IAP-66 to show that reinstatement was granted, effective as of the date on which the application for reinstatement was received by the Exchange Visitor Program Services office; and

(ii) By returning the new Form IAP-66 for the exchange visitor.

(j) *How long will it take us to act on your request for reinstatement?* We will act on your request for reinstatement within forty-five days from the date on which we receive the request and supporting documentation.

(k) *Are you required to notify us each time that you correct a record?* No special notification is necessary. Submission of the notification copy of Form IAP-66

to the Department of State serves as notice that a record has been corrected. Following the regulations in this part in issuing a letter or document serves as correction in the sponsor's file for those items not normally sent to the Department of State under existing notification procedures.

[64 FR 44126, Aug. 13, 1999. Redesignated at 64 FR 54539, Oct. 7, 1999]

Subpart D—Sanctions

§ 62.50 Sanctions.

(a) *Reason for sanctions.* The Department of State may, upon a determination by the office of Exchange Visitor Program Services ("EVPS"), impose sanctions against a sponsor which has:

(1) Willfully or negligently violated one or more provisions of this part;

(2) Evidenced a pattern of willful or negligent failure to comply with one or more provisions of this part;

(3) Committed an act of omission or commission which has or could have the effect of endangering the health, safety, or welfare of an exchange visitor; or

(4) Committed an act or acts which may have the effect of bringing the Department of State or the Exchange Visitor Program into notoriety or disrepute.

(b) *Lesser sanctions.* (1) In order to ensure full compliance with the regulations in this part, the Department of State, in its discretion and depending on the nature and seriousness of the violation, may impose any or all of the following sanctions ("lesser sanctions") on a sponsor for any of the reasons set forth in § 514.50(a):

(i) A written reprimand to the sponsor, with a warning that repeated or persistent violations of the regulations in this Part may result in suspension or revocation of the sponsor's exchange visitor program designation, or other sanctions as set forth herein;

(ii) A declaration placing the exchange visitor sponsor on probation, for a period of time determined by the Department of State in its discretion, signifying a pattern of serious willful or negligent violation of regulations such that further violations could lead to suspension or revocation;

(iii) A corrective action plan designed to cure the sponsor's violations; or

(iv) A limitation or reduction in the authorized number of exchange visitors in the sponsor's program or in the geographic area of the sponsor's recruitment or activity.

(2) Within ten days of service of the written notice to the sponsor imposing any of the sanctions set forth in this paragraph, the sponsor may submit to EVPS any statement or information, including, if appropriate, any documentary evidence or affidavits in opposition to or mitigation of the sanction, and may request a conference. Upon its review and consideration of such submission, the Department of State may, in its discretion, modify, withdraw, or confirm such sanction. All materials submitted by the sponsor shall become a part of the sponsor's file with EVPS. The decision of EVPS is not appealable with regard to lesser sanctions in paragraphs (b)(1)(i) to (iv), if:

(i) The proposed limitation in the size of the sponsor's program is equivalent to 10 percent or less of the number of authorized visitors in the sponsor's program during the previous calendar year; or

(ii) The proposed limitation in the size of the sponsor's program will not cause a significant financial burden for the sponsor.

(c) *Suspension or significant program limitation.* (1) Upon a finding that a suspension, or a reduction in the sponsor's program equivalent to a number greater than 10 percent of the number of authorized visitors, is warranted for any of the reasons set forth at § 514.50(a), EVPS shall give written notice to the sponsor of the Department of State's intent to impose the sanction, specifying therein the reasons for such sanction and the effective date thereof, which shall not be sooner than 30 days after the date of the letter of notification.

(2) Prior to the proposed effective date of such sanction, the sponsor may submit a protest to EVPS, setting forth therein any reasons why suspension should not be imposed, and presenting any documentary evidence in

support thereof, and demonstrating that the sponsor is in compliance with all lawful requirements. All materials submitted by the sponsor shall become a part of the sponsor's file with EVPS.

(3) EVPS shall review and consider the sponsor's submission and, within seven (7) days of receipt thereof, notify the sponsor in writing of its decision on whether the sanction is to be affected. In the event that the decision is to impose the sanction, such notice shall inform the sponsor of its right to appeal the sanction and of its right to a formal hearing thereon.

(4) The sponsor may within ten (10) days after receipt of the aforesaid notice effecting the sanction, appeal the sanction to the Exchange Visitor Program Designation, Suspension and Revocation Division ("Division") by filing a notice of appeal with the Department of State's Bureau of Consular Affairs, room 700, 301 4th Street, SW., Washington, DC 20547. The filing of the notice of appeal shall serve to stay the effective date of the sanction pending appeal.

(5) Upon receipt of the notice of appeal, the Bureau of Consular Affairs or his or her designee, shall, within ten (10) days, convene the Division. Thereafter, proceedings before the Division shall follow the regulations set forth in § 514.50(i), *infra*.

(d) *Summary suspension.* (1) EVPS may, upon a finding that a sponsor has willfully or negligently committed a serious act of omission or commission which has or could have the effect of endangering the health, safety, or welfare of an exchange visitor, and upon written notice to the sponsor specifying the reason therefor and the effective date thereof, notify the sponsor of the Department of State's intent to suspend the designation of the sponsor's program for a period not to exceed sixty (60) days.

(2) No later than three (3) days after receipt of such notification, the sponsor may submit a rebuttal to the EVPS, setting forth therein any reasons why a suspension should not be imposed.

(3) The sponsor may present any statement or information in such protest, including, if appropriate, any documentary evidence or affidavits in opposition to or mitigation of the sanction, and demonstrating that the sponsor is in compliance with all lawful requirements. All materials submitted by the sponsor shall become a part of the sponsor's file with EVPS. Within three (3) days of receipt of such submissions, EVPS shall notify the sponsor in writing of its decision whether to effect the suspension. In the event the decision is to effect the suspension, such notice shall advise the sponsor of its right to appeal the suspension and of its right to a formal hearing thereon.

(4) The sponsor may, within ten (10) days after receipt of the aforesaid notice continuing the suspension, appeal the suspension to the Division by filing a notice of appeal with the Department of State's Bureau of Consular Affairs, room 700, 301 4th Street, SW., Washington, DC 20547. The filing of the notice of appeal of a summary suspension shall not serve to stay the suspension pending appeal.

(5) Upon receipt of the notice of appeal, the Bureau of Consular Affairs or his or her designee shall, within ten (10) days, convene the Division. Thereafter, proceedings before the Division shall follow the regulations set forth in § 514.50(i), *infra*.

(e) *Revocation.* (1) EVPS may, for any reason set forth at § 514.50(a), give the sponsor not less than thirty (30) days notice in writing of its intent to revoke the sponsor's exchange visitor program designation, specifying therein the grounds for such revocation and the effective date of the revocation. Revocation need not be preceded by the imposition of a summary suspension, a suspension, or any lesser sanctions.

(2) Within ten (10) days of receipt of the aforesaid notice of intent to revoke, the sponsor shall have an opportunity to show cause as to why such revocation should not be imposed, and may submit to EVPS any statement of information, including, if appropriate, any documentary evidence or affidavits in opposition to or mitigation of the violations charged, and demonstrating that the sponsor is in compliance with all lawful requirements. All materials

submitted by the sponsor shall become a part of the sponsor's file with EVPS.

(3) EVPS shall review and consider the sponsor's submission and, thereafter, notify the sponsor in writing of its decision on whether the revocation is to be effected. In the event that the decision on whether the revocation is to effect the revocation, such notice shall advise the sponsor of its right to appeal the revocation and of its right to a formal hearing thereon.

(4) The sponsor may, within twenty (20) days after receipt of the aforesaid notice effecting the revocation, appeal the revocation to the Division by filing a notice of appeal with the Department of State's Bureau of Consular Affairs, room 700, 301 4th Street, SW., Washington, DC 20547. The filing of the notice of appeal shall serve to stay the effective date of the revocation pending appeal.

(5) Upon receipt of the notice of appeal the Bureau of Consular Affairs or his or her designee shall, within ten (10) days, convene the Division. Thereafter, proceedings before the Division shall follow the regulations set forth in § 514.50(i), *infra*.

(f) *Responsible officers.* (1) The Department of State may direct a sponsor to summarily suspend, suspend or revoke the appointment of a responsible officer or alternate responsible officer for any of the reasons set forth in paragraph "(a)" above.

(2) In the event that such action is directed, the sponsor shall be entitled to all of the rights of review or appeal that are accorded to a sponsor under paragraphs "(b)", "(c)", "(d)", and "(e)" of this section.

(g) *Denial of application for redesignation.* (1) EVPS shall give an applicant for redesignation not less than thirty (30) days notice in writing of its intentions to deny the application for exchange visitor program redesignation, specifying therein the grounds for such denial.

(2) Within ten (10) days of receipt of the aforesaid notice of intent to deny the application, the applicant shall have an opportunity to demonstrate why the application should be approved, and may submit to EVPS any statement or information including, if appropriate, any documentary evidence

Department of State

§ 62.50

or affidavits in support of its application.

(3) EVPS shall review and consider the applicant's submission and thereafter notify the applicant in writing of its decision on whether the application for redesignation will be approved. In the event that the decision is to deny the applicant, such notice shall advise the applicant of its right to appeal the denial and of its right to a formal hearing thereon.

(4) The applicant may, within twenty (20) days after receipt of the aforesaid notice of denial, appeal the denial to the Division by filing a notice of appeal with the Department of State's Bureau of Consular Affairs, room 700, 301 4th Street, SW., Washington, DC 20547.

(5) Upon receipt of the notice of appeal the Bureau of Consular Affairs or his or her designee shall, within ten (10) days, convene the Division. Thereafter, proceedings before the Division shall follow the regulations set forth in § 514.50(i), *infra*.

(h) The Exchange Visitor Program Designation, Suspension, and Revocation Board. (1) The Exchange Visitor Program Designation, Suspension, and Revocation Board ("Board") shall consist of Department of State positions equivalent to the following positions:

(i) The Deputy Associate Director of the Bureau of Educational and Cultural Affairs, or his or her designee, who shall serve as presiding officer of the Division;

(ii) The Deputy Director of the relevant geographic area office, or his or her designee; and

(iii) A member of the public appointed by the Deputy Associate Director of the Bureau of Educational and Cultural Affairs. A different public member shall be appointed for each sanction case brought before the Division.

(2) The Bureau of Consular Affairs of the Department of State shall appoint an attorney in the Office of the Bureau of Consular Affairs to prosecute the case before the Division on behalf of the Department of State. Such attorney shall not take part in the deliberations of the Division.

(3) The Bureau of Consular Affairs of the Department of State shall also appoint an attorney in the Office of the

Bureau of Consular Affairs to serve as a legal advisor to the Division. Such attorney shall not have had any substantial prior involvement with the particular case pending before the Division.

(i) *General powers of the Division.* At any hearing before the Division pursuant to this Part, the Division may:

(1) Administer oaths and affirmations;

(2) Rule on offers of proof and receive any oral or documentary evidence;

(3) Require the parties to submit lists of proposed witnesses and exhibits, and otherwise regulate the course of the hearing;

(4) Hold conferences for the settlement or simplification of the issues by consent of the parties;

(5) Dispose of motions, procedural requests, or similar matters; and

(6) Make decisions, which shall include findings of fact and conclusions of law on all the material issues of fact, law or discretion presented on the record, and the appropriate sanction or denial thereof.

(j) *Proceedings before the Division.* The following procedures shall govern all designation, suspension, summary suspension, and revocation proceedings before the Division:

(1) Upon being convened, the Division shall schedule a hearing, within ten (10) days, at which hearing the parties may appear on their own behalf or by counsel, present oral or written evidence, and cross-examine witnesses. A substantially verbatim record of the hearing shall be made and shall become a part of the record of the proceeding;

(2) At the conclusion of the hearing, the Division shall promptly review the evidence and issue a written decision within ten (10) days, signed by a majority of the members, stating the basis for its decision. The decision of the majority shall be the decision of the Division. If a Division member disagrees with the majority, the member may write a dissenting opinion;

(3) If the Division decides to affirm the suspension, summary suspension, revocation, or denial of redesignation, a copy of its decision shall be delivered to EVPS, the sponsor, the Immigration and Naturalization Service, and the

Bureau of Consular Affairs of the Department of State. EVPS, at its discretion, may distribute the Division's decision as it deems appropriate; and

(4) The suspension, revocation, or denial of designation shall be effective as of the date of the Division's decision.

(k) *Effect of suspension, summary suspension, revocation, or denial of redesignation.* A sponsor against which an order of suspension, summary suspension, revocation, or denial of redesignation has been entered shall not thereafter issue any Forms IAP-66, advertise, recruit, or otherwise promote its program, and under no circumstances shall the sponsor facilitate the entry of an exchange visitor. Suspension, summary suspension, revocation, or denial of redesignation shall not invalidate any Forms IAP-66 issued prior to the effective date of the suspension, summary suspension, revocation, or denial of redesignation, nor shall the suspension, summary suspension, revocation, or denial of redesignation in any way diminish or restrict the sponsor's legal or financial responsibilities to existing program participants.

(l) *Miscellaneous—(1) Computation of time.* In computing any period of time prescribed or allowed by these regulations, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, a Sunday, or a federal legal holiday, in which event the period runs until the end of the next day which is not one of the aforementioned days. When the period of time prescribed or allowed is less than eleven (11) days, intermediate Saturdays, Sundays, or federal legal holidays shall be excluded in the computation.

(2) *Service of notice on sponsor.* When used in these regulations the terms "written notice to the sponsor" shall mean service of written notice by mail, delivery or facsimile, upon either the president, managing director, responsible officer, or alternate responsible officer of the sponsor.

[58 FR 15196, Mar. 19, 1993. Redesignated and amended at 64 FR 54540, Oct. 7, 1999]

Subpart E—Termination and Revocation of Programs

§ 62.60 Termination of designation.

Designation shall be terminated when any of the circumstances set forth in this section occur.

(a) *Voluntary termination.* A sponsor may voluntarily terminate its designation by notifying the Department of State of such intent. The sponsor's designation shall terminate upon such notification. Such sponsor may reapply for designation.

(b) *Inactivity.* A sponsor's designation shall automatically terminate for inactivity if the sponsor fails to comply with the minimum size or duration requirements, as specified in § 514.8 (a) and (b), in any twelve month period. Such sponsor may reapply for program designation.

(c) *Failure to file annual reports.* A sponsor's designation shall automatically terminate if the sponsor fails to file annual reports for two consecutive years. Such sponsor is eligible to reapply for program designation upon the filing of the past due annual reports.

(d) *Change in ownership or control.* An exchange visitor program designation is not assignable or transferable. A major change in ownership or control automatically terminates the designation. However, the successor sponsor may apply to the Department of State for redesignation and may continue its exchange visitor activities while approval of the application for redesignation is pending before the Department of State.

(1) With respect to a for-profit corporation, a major change in ownership shall be deemed to have occurred when thirty-three and one-third percent (33⅓ percent) or more of its stock is sold or otherwise transferred within a 12 month period;

(2) With respect to a not-for-profit corporation, a major change of control shall be deemed to have occurred when fifty-one percent or more of the board of trustees, or other like body vested with its management, is replaced within a 12-month period.

(e) *Loss of licensure or accreditation.* A sponsor's designation shall automatically terminate in the event that the sponsor fails to remain in compliance

Department of State

Pt. 62, App. B

with local, state, federal, or professional requirements necessary to carry out the activity for which it is designated, including loss of accreditation or licensure.

(f) *Failure to apply for redesignation.* Prior to the conclusion of its current designation period, the sponsor is required to apply for redesignation pursuant to the terms and conditions of §514.7. Failure to apply for redesignation will result in the automatic termination of the sponsor's designation. If so terminated, the former sponsor may apply for a new designation, but the program activity will be suspended during the pendency of the application.

§ 62.61 Revocation.

A designation may be terminated by revocation for cause as specified in §514.50. A sponsor whose designation has been revoked may not apply for a new designation within a five-year period.

§ 62.62 Responsibilities of the sponsor upon termination or revocation.

Upon termination or revocation of its designation, the sponsor shall:

(a) Fulfill its responsibilities to all exchange visitors who are in the United States at the time of the termination or revocation;

(b) Notify exchange visitors who have not entered the United States that the program has been terminated unless a transfer to another designated program can be obtained; and

(c) Return all Forms IAP-66 in the sponsor's possession to the Department of State within 30 days of program termination or revocation.

APPENDIX A TO PART 62—CERTIFICATION OF RESPONSIBLE OFFICERS AND SPONSORS

In accordance with the requirement at §514.5(c)(6), the text of the certifications shall read as follows:

1. Responsible Officers and Alternate Responsible Officers

I hereby certify that I am the responsible officer (or alternate responsible officer, specify) for exchange visitor program number _____, and that I am a United States citizen or permanent resident. I understand that the Department of State may request supporting documentation as to my citizenship or permanent residence at any time and

that I must supply such documentation when and as requested. (Name of organization) agrees that my inability to substantiate the representation of citizenship or permanent residence made in this certification will result in the immediate withdrawal of its designation and the immediate return of or accounting for all Forms IAP-66 transferred to it.

Signed in ink by _____

(Name) _____

(Title) _____

Witness: _____

This _____ day of _____, 19____.
Subscribed and sworn to before me this _____ day of _____, 19____.

Notary Public _____

2. Sponsors.

I hereby certify that I am the chief executive officer of (Name of Organization) with the title of (specify); that I am authorized to sign this certification and bind (Name of Organization). I further certify that (Name of Organization) is a citizen of the United States as that term is defined at 22 CFR §514.2. (Name of Organization) agrees that inability to substantiate the representation of citizenship made in this certification will result in the immediate withdrawal of its designation and the immediate return of or accounting for all Forms IAP-66 transferred to it.

Signed in ink by _____

(Name) _____

(Title) _____

Attestation/Witness: _____

This _____ day of _____, 19____.
Subscribed and sworn to before me this _____ day of _____, 19____.

Notary Public _____

APPENDIX B TO PART 62—EXCHANGE VISITOR PROGRAM SERVICES, EXCHANGE-VISITOR PROGRAM APPLICATION

Form Approved OMB _____
Serial No. _____

1. Name and Address of Sponsoring Organization _____

2. Name and Title of Responsible Officer _____

Telephone Number _____

3. Name and Title of Alternate Responsible Officer _____

Pt. 62, App. B

22 CFR Ch. I (4–1–00 Edition)

Telephone Number

4. Type of Application
(check one)

New _____ Re-Apply _____

Re-Designation _____

**SECTION I—PROGRAM PARTICIPANT DATA (FOR
DEFINITION & LENGTH OF STAY SEE 22 CFR
_____)**

5. Participation by Category (indicate total
no. and approximate duration of stay in each
category)

A. Student _____

B. Teacher _____

C. Professor _____

D. Researcher _____

E. Short-term Scholar _____

F. Specialist _____

G. Trainee _____

1. Specialty _____

2. Nonspecialty _____

H. Int'l Visitor _____

I. Gov't Visitor _____

J. Physicians _____

K. Camp Cnslr _____

L. Sumr/Wk/Trvl _____

6. Method Of Selection

7. Arrangements for Financial Support of Ex-
change Visitor while in the U.S.

SECTION II—PROGRAM DATA

8. Outline of Proposed Activities (If training,
See Reverse)

9. Arrangements for Supervision and Direc-
tion

10. Purpose of Objective

11. Role of other Organizations Associated
with Program (if any)

SECTION III—CERTIFICATION

12. Citizenship Certification of Organization
and Responsible Officer (see reverse)

13. I certify that information given in this
application is true to the best of my knowl-
edge and belief and that I have completed ap-
propriate information on reverse of this
form.

Signature of Responsible Officer

Date

INSTRUCTIONS FOR ALL PROGRAMS

If additional space is needed in supplying
answers to any questions, please use con-
tinuation sheets on plain white paper.

1-3. Names and addresses of organization
and telephone numbers.

4. Select type of application.

5. Select appropriate categories (see 22
CFR prior to filling out this data).

6-7. Complete information on program
sponsor.

8-11. Complete information on program.

IF TRAINING PROGRAM, identify appro-
priate fields: 01—Arts & Culture; 02—Infor-
mation Media and Communications; 03—Edu-
cation; 04—Business and Commercial; 05—
Banking and Financial; 06—Aviation; 07—
Science, Mechanical and Industrial; 08—Con-
struction and Building Trades; 09—Agricul-
tural; 10—Public Administration; 11—Train-
ing, Other

Reapplication and Redesignation:

If your organization is making reapplica-
tion as an exchange visitor program, or ap-
plying for redesignation under 22 CFR ____,
please certify to the following:

I hereby certify that as an officer of the or-
ganization making application for an ex-
change program under 22 CFR ____ or 22 CFR
____ that the following documents which
have been submitted to the Department of
State, Exchange Visitor Program Services,
remain in effect and not altered in any way:

(1) Legal status as a corporation such as
Articles of Incorporation and By Laws. Pro-
vide dates and state of both: _____

(2) Accreditation. Provide date, type of ac-
creditation, and State of accreditation: _____

(3) Evidence of Licensure. Provide date,
type of license, and state of licensure: _____

(4) Authorization of governing body au-
thorizing application. Please provide date of
such authorization and authorizing
body: _____

(5) Activities in which the organization has
been engaged have not changed since appli-
cation dated: _____

(6) Citizenship. Provide the date of compli-
ance with citizenship requirements: _____.
If citizenship compliance is not current,
please complete the following:

Organization: I hereby certify that I am an
officer of _____ with the title of _____.
that I am authorized by the (Board of Direc-
tors, Trustees, etc.) to sign this certification
and bind _____. and that a true copy cer-
tified by the (Board of Directors, Trustees,
etc.) of such authorization is attached. I fur-
ther certify that _____ is a citizen of the
United States as that term is defined at 22
CFR 514.1.

Responsible Officer or Alternate Respon-
sible Officer: I hereby certify that I am the
responsible officer (or alternate responsible
officer) for _____, and that I am a citizen of
the United States (or a person lawfully ad-
mitted to the United States for permanent
residence. _____ agrees that my inability
to substantiate my citizenship or status as a

Department of State

Pt. 62, App. D

permanent resident will result in the immediate withdrawal of its designation and immediate return of or accounting for all IAP-66 forms transferred to it.

Certification as to (1)-(6) Requirements:

I understand that false certification may subject me to criminal prosecution under 18 U.S.C. 1001, which reads: "Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme or device a material fact or makes any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than five years, or both."

Signed in ink by (Name) _____
Title _____
Subscribed and sworn to before me this _____ day of _____, 19____, Notary Public

Department of State Use Only

Type of program: _____
Subtype if applicable: _____
No. Forms IAP-66: _____
Categories: _____

Please return form to:
Exchange Visitor Program Services-GC/V,
Department of State, Washington, DC 20547
NOTE: Public reporting burden for this collection of information (Paperwork Reduction Project: OMB No. 3116-0011) is estimated to average _____ minutes/hours per response, including time for reviewing instructions, researching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of State Clearance Officer, M/ASP, Department of State, 301 4th Street, SW., Washington, DC 20547; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

APPENDIX C TO PART 62—UPDATE OF INFORMATION ON EXCHANGE-VISITOR PROGRAM SPONSOR

Please amend the Department of State records for Exchange-Visitor Program Number _____ assigned to _____ as follows:
(Name of institution/organization)

1. Change the name of the Program Sponsor from the above to _____

2. Change the address of the Program Sponsor From: _____

(city) (state) (zip)
To: _____

(city) (state) (zip)

3. () Change the telephone number from _____ to _____
() Change the fax number from _____ to _____

4. () Change the name of the Responsible Officer of the above program from _____ to _____

5. a. Delete the following Alternate Responsible Officer:

5. b. Add the following Alternate Responsible Officer:

(Citizenship is required for all Responsible and Alternate Responsible Officers—See Reverse)

6. () Send _____ (indicate number) IAP-66 forms. (PLEASE ALLOW FOUR TO SIX WEEKS FOR RESPONSE AND REMEMBER TO SUBMIT THE ANNUAL REPORT)

7. () Send _____ copies of this form.

8. () Send _____ copies of Codes for Educational and Cultural Exchange.

9. () Cancel the above named Exchange Visitor Program.

(Signature of Responsible or Alternate Responsible Officer)

(Date)

(Title of Signing Officer)

APPENDIX D TO PART 62—ANNUAL REPORT—EXCHANGE VISITOR PROGRAM SERVICES (GC/V), DEPARTMENT OF STATE, WASHINGTON, DC 20547, (202-401-7964)

Exchange Visitor Program No. _____ Reporting Period _____ Provide Range of Forms IAP-66 Documents Covered by this Report (_____-____).

(A) STATISTICAL REPORT

(1) ACTIVITY BY CATEGORY

Number

Professor _____

	<i>Number</i>
Research Scholar	_____
Short-term Scholar	_____
Trainee	_____
Student (College and University)	_____
Student (Practical Trainee)	_____
Teacher	_____
Student (Secondary)	_____
Specialists	_____
Physicians	_____
International Visitors	_____
Government Visitors	_____
Camp Counselors	_____
Total	_____

- (2) Forms IAP-66 Reconciliation
 (i) Number of Forms IAP-66 voided or otherwise not used by participant _____.
 (ii) Number of Forms IAP-66 issued for dependents _____.
 (iii) Number of Forms IAP-66 currently on hand _____.

(B) PROGRAM EVALUATION

On a separate sheet, please provide a brief narrative report on program activity, difficulties encountered and their resolution, program transfers, anticipated growth and the proposed new activity, cross-cultural activities, as well as the reciprocal component of the program.

I, The Responsible Officer of the program indicated above, certify that we have complied with the insurance requirement (22 CFR 514.14). I also certify that the information contained in this report is complete and correct to the best of my knowledge and belief.

Responsible Officer (signed) _____
 Date _____

Name and address of sponsoring institution _____

APPENDIX E TO PART 62—UNSKILLED OCCUPATIONS

For purposes of 22 CFR 514.22(c)(1), the following are considered to be "unskilled occupations":

- (1) Assemblers
- (2) Attendants, Parking Lot
- (3) Attendants (Service Workers such as Personal Services Attendants, Amusement and Recreation Service Attendants)
- (4) Automobile Service Station Attendants
- (5) Bartenders
- (6) Bookkeepers
- (7) Caretakers
- (8) Cashiers
- (9) Charworkers and Cleaners
- (10) Chauffeurs and Taxicab Drivers
- (11) Cleaners, Hotel and Motel
- (12) Clerks, General

- (13) Clerks, Hotel
- (14) Clerks and Checkers, Grocery Stores
- (15) Clerk Typist
- (16) Cooks, Short Order
- (17) Counter and Fountain Workers
- (18) Dining Room Attendants
- (19) Electric Truck Operators
- (20) Elevator Operators
- (21) Floorworkers
- (22) Groundskeepers
- (23) Guards
- (24) Helpers, any industry
- (25) Hotel Cleaners
- (26) Household Domestic Service Workers
- (27) Housekeepers
- (28) Janitors
- (29) Key Punch Operators
- (30) Kitchen Workers
- (31) Laborers, Common
- (32) Laborers, Farm
- (33) Laborers, Mine
- (34) Loopers and Toppers
- (35) Material Handlers
- (36) Nurses' Aides and Orderlies
- (37) Packers, Markers, Bottlers and Related
- (38) Porters
- (39) Receptionists
- (40) Sailors and Deck Hands
- (41) Sales Clerks, General
- (42) Sewing Machine Operators and Handstitchers
- (43) Stock Room and Warehouse Workers
- (44) Streetcar and Bus Conductors
- (45) Telephone Operators
- (46) Truck Drivers and Tractor Drivers
- (47) Typist, Lesser Skilled
- (48) Ushers, Recreation and Amusement
- (49) Yard Workers

PART 63—PAYMENTS TO AND ON BEHALF OF PARTICIPANTS IN THE INTERNATIONAL EDUCATIONAL AND CULTURAL EXCHANGE PROGRAM

Sec.

- 63.1 Definitions.
- 63.2 Applicability of this part under special circumstances.
- 63.3 Grants to foreign participants to observe, consult, demonstrate special skills, or engage in specialized programs.
- 63.4 Grants to foreign participants to lecture, teach, and engage in research.
- 63.5 Grants to foreign participants to study.
- 63.6 Assignment of United States Government employees to consult, lecture, teach, engage in research, or demonstrate special skills.
- 63.7 Grants to United States participants to consult, lecture, teach, engage in research, demonstrate special skills, or engage in specialized programs.
- 63.8 Grants to United States participants to study.